

# CITY COUNCIL REPORT



MEETING DATE: 06/19/07    ITEM No. 36    GOAL: PUBLIC SAFETY

**SUBJECT**                      Approve Resolution No. 7295 authorizing IGA 2007-092-COS with the Arizona Department of Public Safety (DPS) and related contract amendments with ATS and Redflex to continue the Loop 101 Photo Enforcement Program through December 31, 2007, with two optional one-month extensions.

- REQUEST**
1. Approve Resolution No. 7295 authorizing IGA 2007-092-COS with the Arizona Department of Public Safety (DPS) for a six month period, with two optional one-month extensions, to allow DPS to use the City's photo enforcement contract(s) to take over administration of the Loop 101 photo enforcement program.
  2. Exercise option for Loop 101 photo enforcement pursuant to Contract No. 2007-063-COS-A1 with American Traffic Systems (ATS) for the period July 1, 2007 through December 31, 2007 and optional extensions.
  3. Exercise option for extension of the provision of 101 Photo Radar (Photo Enforcement) pursuant to Contract No. 2002-072-COS-A3 with Redflex for activities during program transition in July 2007.
  4. Approve budget transfer for \$3 million from the 2007/08 General Fund Contingency Fund to applicable photo enforcement operating department cost centers.

**BACKGROUND**                      The City Council on January 16, 2007 reviewed the results of the nine-month Loop 101 Photo Enforcement Demonstration Program. The program's citation phase had ended October 23, 2006. The City covered the cameras and continued to collect data on driver speeds.

The review included preliminary results from a study showing the program reduced average speeds by nearly 10 mph, reduced the overall number of collisions and reduced the severity of collisions. Survey results presented to the Council showed 70 percent of Scottsdale residents polled in December 2006 supported photo enforcement on freeways and 62 percent of respondents statewide supported the idea.

The City Council voted unanimously to request that the State of Arizona assume operations of photo enforcement programs on state highways, and specifically on Scottsdale's portion of Loop 101. Correspondence between the City and the Governor's office resulted in the State's request that the City redeploy the photo enforcement cameras on the Loop 101 through June 30, 2007 to give the Department of Public Safety time to implement a comprehensive, statewide program that will have a positive effect on public safety. Cameras were reactivated on February 22, 2007; the program has generated 32,236 citations through May and is expected to generate an additional 12,500 citations through June 30, 2007.

The DPS has begun development of a statewide program in rural areas of the state,

but has not yet completed a request for proposals (RFP) for freeway enforcement. Additional time is needed to finalize intergovernmental agreements with various justice courts as well as to coordinate with various agencies. In order to ensure photo enforcement on Scottsdale's portion of Loop 101 continues without interruption, the DPS has asked to take over the program by entering into an IGA with the City allowing DPS to use the City's photo enforcement contractor and process citations through the City's Court. The IGA allows for the continued operation of photo enforcement on the Loop 101 for a limited period of time beginning July 1, 2007.

## **ANALYSIS & ASSESSMENT**

**Terms of the IGA.** Major provisions of the IGA include the following:

- The IGA is effective on July 1, 2007 and will terminate at midnight December 31, 2007, unless extended by the Scottsdale City Manager for no more than an additional 60 days.
- Permits required by ADOT for the program will be requested by ATS and DPS.
- The City will collect all revenue and disburse all costs associated with the program, retaining any excess revenue. Should revenues not cover expenses; DPS will reimburse the City in full for any shortfall.
- The City assumes no financial obligation or liability in connection with the installation or operation of the Loop 101 Photo Enforcement Program.

**Terms of the amendments with Redflex and ATS.** The contract amendments with Redflex and ATS allow for an orderly transition of equipment and operation of the Loop 101 program between the two vendors. They have agreed to the following fees and timetables:

**Redflex:** Monthly fixed fee of \$ 2,761 for each of their 4 active cameras during the month of July. July 2007 will have a staggered implementation, during which Redflex will be operating a portion of the systems while the program is being transitioned to ATS.

**ATS:** Monthly fixed fee of \$2,761 for each active camera, and \$47.48 for every citation with a successful disposition. The active camera fee will start when each of the six sites are fully operational. It is expected that all six cameras will be active by July 31, 2007.

**Staffing.** The City Court and Prosecutor's Office will continue to utilize contract staff (four positions, and one position respectively) as needed during this program. Costs for these positions are incorporated in the financial forecast below.

**Public awareness program.** The city has begun to inform the media and public about the transition to a new vendor and new locations for the photo enforcement program on city streets and will work with DPS to inform the public that the state is assuming responsibility for the Loop 101 program. The City's website and other information will be updated to reflect DPS' role as the police agency responsible for citations, and DPS will include information in their website/other outlets.

**Financial impact.** Staff is recommending budget authority to allow the City to collect additional revenues and pay added expenses expected from the extended program through the period up to February 2008. Based on the financial performance of the

photo enforcement program to date, and possible construction activity for up to four of the sites sometime after September 1, 2007, the staff expects that revenue from fines will be sufficient to cover the City's direct costs.

**Expected expenses and revenues.** The Court and PD staff prepared a forecast of the projected revenues and expenses of continuing the program through December 31, 2007 and February 29, 2008 (maximum two month extension).

Based on the financial performance of the photo enforcement program to date and anticipated construction activity for up to four of the sites beginning after September 1, staff expects that revenue from fines will be sufficient to cover the City's direct costs.

	<b>6 Month Activation 7/1/07-12/31/07</b>	<b>8 Month Activation 7/1/07-2/29/07</b>
<b><u>Citations Filed</u></b>	<b>49,655</b>	<b>70,040</b>
<b><u>Citations with successful disposition</u></b>	<b>30,755</b>	<b>43,379</b>
<b><u>General Fund Revenue</u></b>	<b>\$2,328,595</b>	<b>\$3,279,941</b>
Court Enhancement Revenue	309,875	436,629
Judicial Collection Enhancement Revenue	8,857	14,706
<b>Total City Revenue</b>	<b>2,647,327</b>	<b>3,731,277</b>
<b><u>Estimated Direct Expense</u></b>		
DPS citation authorization fees	\$160,106	\$225,597
Vendor contract fees	1,398,106	1,963,667
Process service fees	430,245	579,145
Prosecutor contract staff	44,390	58,066
Court contract staff, related equipment, other	140,920	173,525
<b>Total Estimated Direct Expense</b>	<b>\$2,173,767</b>	<b>\$3,000,000</b>
<b>General Fund Revenue Less Direct Expense</b>	<b>\$154,828</b>	<b>\$279,941</b>
<b>Mandated Surcharge (paid to the State)</b>	<b>\$1,862,876</b>	<b>\$2,623,953</b>

Under both forecasted scenarios (6 months and 8 months), direct expenses include payment to the vendor for system/citation fees, DPS citation processing fees, credit card banking fees, Court contract staff directly involved in the program, and Prosecutor staff who represent the City and handle appeals.

The expense amounts of \$2,173,767 and \$3,000,000 do not include indirect costs for administrative and management staff members who have spent time on the project, but are not directly involved in the photo enforcement process. These costs include program management by the Police, Transportation, Court and Prosecutor's Office and administrative costs incurred by support departments (Payroll, Information Systems, Legal, Finance and Communications and Public Affairs).

In addition to the General Fund revenues between \$2,328,595 and \$3,279,941 reactivation of

the Loop 101 cameras are expected to generate between \$1,862,876 and \$2,623,953 in surcharge revenue to the State and between \$318,732 and \$451,335 for the Court Enhancement Fund and the local Judicial Collection Enhancement Fund.

**OTHER  
CONSIDERATIONS**

Construction of high-occupancy vehicle (HOV) lanes on much of Scottsdale's segment of the Loop 101 is scheduled to begin after September 1, 2007.

**OPTIONS & STAFF  
RECOMMENDATION**

Public safety benefits are demonstrable. Staff has researched financial and workload impacts of continuing the Loop 101 photo enforcement program through December 31, 2007, with two optional one-month extensions. Staff recommends approval of this request.

**RESPONSIBLE  
DEPT(S)**

Police, Court, City Attorney, Transportation, Financial Services, City Manager/Intergovernmental

**STAFF  
CONTACT(S)**

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**APPROVED BY**

  
Alan G. Rodbell, Chief of Police

Date

  
Craig Clifford, Financial Services General Manager

Date

  
Janet M. Dolan, City Manager

Date

**ATTACHMENTS**

1. ATS Contract Amendment 2007-063-COS-A1
2. Redflex Contract Amendment 2002-072-COS-A3
3. Resolution No. 7295 authorizing IGA
4. Intergovernmental Agreement (IGA) 2007-092-COS between the City of Scottsdale and Arizona Department of Public Safety (DPS)



1. Inter-Departmental Agreement (IGA) 2007-022-COS between the City of Scottsdale and Arizona Department of Public Safety (DPS)
2. Resolution No. 1295 authorizing IGA
3. Revised Contract Amendment 2005-012-COS-A3
4. ATR Contract Amendment 2007-022-COS-A1

ATTACHMENTS

\_\_\_\_\_  
Janet M. Dolan, City Manager

Date

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Craig Dittler, Financial Services General Manager

Date

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Alan G. Robb, Chief of Police

Date

APPROVED BY

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STAFF

RESPONSIBLE  
DEPT(S)

\_\_\_\_\_  
Police, Court, City Attorney, Transportation, Financial Services, City Manager/Intergovernmental

RECOMMENDATION  
OPTION 2 STAFF

CONSIDERATIONS

OTHER

request.  
2007, with two optional one month extensions. Staff recommends approval of this  
impacts of continuing the Loop 101 photo enforcement program through December 31,  
Public safety benefits are demonstrable. Staff has researched financial and workload  
of the Loop 101 is scheduled to begin after September 1, 2007.  
Construction of high-occupancy vehicle (HOV) lanes on much of Scottsdale's segment

Enhancement Fund and the local Judicial Collection Enhancement Fund.  
surcharge revenue to the State and between \$218,702 and \$451,386 for the Court  
the Loop 101 cameras are expected to generate between \$1,822,876 and \$2,623,028 in

**MODIFICATION TO  
PHOTO ENFORCEMENT PROGRAM  
CONTRACT  
CITY OF SCOTTSDALE**

THIS CONTRACT, entered into this 19th day of June, 2007, is between the City of Scottsdale, an Arizona municipal corporation, and American Traffic Solutions, Inc., an Arizona Corporation.

**RECITALS**

- A. The City has entered into Contract No. 2007-063-COS (the ATS Contract) for photo enforcement on its City streets; and
- B. The State of Arizona has requested that the City continue, for a limited period of time, the photo enforcement program on the Loop 101; and
- C. The Contractor has agreed to install and operate a photo enforcement program on the Loop 101 within the legal boundaries of the City; and
- D. The City has entered into Intergovernmental Agreement No. 2007-092-COS with the Arizona Department of Public Safety (DPS) to provide for the installation and operation of the required Photo Enforcement Systems and for City prosecution of citations issued by the Contractor for violations occurring at no more than 6 sites on the Loop 101; and
- E. Contract No. 2007-063-COS is amended by the addition of this Contract Modification to provide for these services by the Contractor.

**IN CONSIDERATION** of the mutual covenants and obligations contained in this Contract Modification, the Parties agree as follows:

**1.0 RECITALS**

All Recitals are incorporated in this Addendum by this reference.

**2.0 PHOTO ENFORCEMENT SYSTEM ON LOOP 101**

The Contractor will use its best efforts to install not more than 6 Photo Enforcement Systems on the Loop 101 (SR101) within the legal boundaries of the City of Scottsdale. The Arizona Department of Public Safety (DPS) will work with the Contractor to expedite any necessary permitting and approvals for all construction, installation and testing work required to be conducted by the Contractor in accordance with IGA No. 2007-092-COS.

- a. The incumbent vendor will terminate its photo enforcement operations at Photo Enforcement sites (a) and (b) as listed in Section 2.1 at midnight on June

30, 2007. The Contractor will have these 2 Photo Enforcement Systems fully operational at these 2 sites no later than midnight, July 15, 2007.

b. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (c) and (d) as listed in Section 2.1 at midnight, July 10, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 21, 2007.

c. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (d) and (e) at midnight, July 20, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 31, 2007.

d. The Contractor will be responsible for any costs incurred in repairing any damage done by its employees to the incumbent vendor's equipment, and the incumbent vendor will be responsible for any costs incurred in repairing any damage done by its employees to the Contractor's equipment. The Contractor may accelerate the above schedule at its prerogative if site conditions allow. All installation and operation of the Systems will be in full conformance with the terms and conditions of the ATS Contract, subject only to differences in the required types of photo enforcement equipment for use on the Loop 101 and the permitting and installation requirements of the Arizona Department of Transportation (ADOT).

e. DPS has agreed to use its best efforts to expedite all necessary permitting and approvals to meet this schedule for fully operational sites. The obligation of the Contractor to meet this schedule is contingent on obtaining and retaining the necessary Permit to use state highway right of way. If DPS is unable to obtain these permits or if the State revokes the permits at a later date, the provisions of this Contract Modification and all of the obligations of the City and DPS are void, and this Contract Modification will immediately terminate. The Contractor will not be subject to penalties if the above schedule is not attained due to factors beyond the Contractor's control.

## **2.1 SELECTED ENFORCEMENT SITES**

The locations listed in this Section 2.1 describe the incumbent vendor's existing Loop 101 Photo Enforcement sites. It is the desire of DPS that the Contractor install its Photo Enforcement Systems at the same site locations, taking into consideration the need to make reasonable efforts not to interfere with the incumbent vendor's equipment or operations. The Contractor will install and operate not more than 6 Photo Enforcement Systems at the following sites, and that the sites will be installed and activated in this order of priority:

- a. Eastbound Loop 101 at Scottsdale Road;
- b. Westbound Loop 101 at Hayden Road;
- c. Southbound Loop 101 at Raintree Drive;
- d. Northbound Loop 101 at Shea Boulevard;
- e. Southbound Loop 101 at Shea Boulevard;
- f. Northbound Loop 101 at Cactus Road.

## **2.2     ATS APPLICATION OF CONTRACT STANDARDS TO LOOP 101**

The Contractor will use its best efforts to install and operate the Photo Enforcement Systems on the Loop 101 to the same standards and requirements, where applicable, as provided to the City of Scottsdale in the ATS Contract, including, but not limited to Sections 2.0, 3.1(a), 5.2, 7.1 and 7.2. All penalty fees authorized in the ATS Contract may be imposed by the City on the Contractor, at the request of DPS, where the circumstances can fairly and reasonably be determined to be a violation of the ATS Contract or the Contract Modification by the Contractor.

## **3.0     TERM OF CONTRACT MODIFICATION**

This Contract Modification will begin on July 1 and terminate at midnight, December 31, 2007 unless extended by mutual agreement of the City, the State of Arizona, and the Contractor. Any extensions by the City may be authorized by the Scottsdale City Manager for not more than 60 days.

## **4.0     ENFORCEMENT STANDARDS**

In all instances, DPS will determine the appropriate speed enforcement margin for a particular location for DPS citations. DPS will work with the Contractor and ADOT to arrive at an acceptable solution for any Photo Enforcement work DPS may desire in construction zones.

## **5.0     DPS PARTICIPATION**

On behalf of DPS, ATS will be responsible for the Police authorization phase of citation processing, including the issuance and final authorizations of citation and the proper signing by authorized personnel, of all citations and NOV's from the Loop 101 Photo Enforcement sites. All citations must be issued in accordance with standards set by the City and will be cited into Scottsdale Municipal Court ("City Court"). For these services on behalf of DPS, the Contractor will be paid an additional fee of \$5.00 for each citation or NOV reaching a successful disposition. All revenues derived from the citations will remain with the City and be disposed of as directed by law, ATS contractual requirements and City Council directives. All surcharges will be transmitted to the State as required by law. DPS has agreed to assign a dedicated project manager and staff sufficient to ensure that citations and other Photo Enforcement operations are completed in a timely manner and citation approvals are completed in time to meet all Scottsdale Municipal Court filing requirements, as set forth in the ATS Contract.

### **5.1     POSTING OF REQUIRED SIGNAGE**

On behalf of DPS, the Contractor will post the required Photo Enforcement signage as required by A.R.S. §28-654, as amended, on the Loop 101 at the Contractor's expense.

## **6.0 DPS SYSTEMS COMPATIBILITY WITH ATS SYSTEMS**

DPS has agreed to access and utilize the Contractor software system, and will run the Contractor authorized web based applications on their work stations. DPS has also agreed to be responsible for the costs of purchase and installation of any necessary software and hardware to make its systems compatible with the Contractor by July 15, 2007.

## **7.0 VEHICLE REGISTRATIONS AND DRIVER'S LICENSE INFORMATION**

Vehicle registration and driver's license information is required to issue citations and Notices of Violation. For Arizona drivers and registered vehicles, DPS will make this information available to the Contractor at no cost. The Contractor must obtain out-of-state registration and Driver's License information, if available, at its expense, within the times required for issuing citations when the state of issuance provides to the Contractor, registration and driver's license expiration dates and status (e.g., Expired, Cancelled, Suspended, Revoked, ID Card Only) and the Contractor will forward this information to DPS and the City. The Contractor will be receiving this information as an agent for DPS.

## **8.0 CITATION FORMAT AND TRACKING**

- a. All citations will be in a format approved by the Scottsdale City Court and the Arizona Supreme Court.
  1. Information mailed to defendants must include:
    - A. Citation
    - B. Photograph
    - C. Options for defendant
    - D. General photo enforcement information
  2. Information mailed to defendants may need to be updated on occasion due to changes in court processes and or legislation. The Contractor must be able to make changes to the Contractor's system in a timely manner and absorb all costs of changes and postage. Any cost to change Court software will be the responsibility of the Court.
- b. All citations must bear a unique citation number as directed by the Scottsdale City Court for tracking purposes (numbers must not duplicate each other or existing City numbers). The current requirements are that citation numbers consist of 8 digits. Each citation must contain the digital signature of an authorized DPS official.
- c. The digital format of the citation available during the DPS Authorization stage must include a drop-down menu to allow adding to the speed citation, additional observable traffic infractions, to include A.R.S. §28-2153, Expired Vehicle License; A.R.S. §28-2354, License Plate, Attachment; A.R.S. §28-2533, Failure to Register; A.R.S. § 28-751 and such other infractions as may be required by DPS. These functions are not required for initial

implementation and will coincide with the same functionality being implemented for the existing Contract between the Contractor and the City.

## **9.0 SERVICE OF CITATIONS**

- a. The Contractor must bear all costs for the mailing of citations, Notices of Violation, photographs/copies of photographs, printing, and other associated costs and expenses required to manage a professional processing center.
- b. Citations (initial or as a result of nominations) must be mailed and postmarked within 3 days after approval through the Police Authorization process. The Contractor will complete its review and approval process within 10 days after receiving the citation record. All processing must comply with court rules and state and city laws and regulations.
- c. The citation must be accompanied by specific, clear instructions. If there is no response within 30 days after mailing of the original citation to the violator, a copy of the citation and the violation photograph will be sent to DPS and the City by the Contractor, at no additional cost to DPS or the City. A copy of the citation and the violation photograph will be personally served on the violator by the City's process server contractor in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service. Personal service will be in accordance with Arizona Rules of Civil Procedure Rule 4.1 that governs Service of Summons upon Individuals. Personal service must be commenced within 45 days of the violation.
- d. DPS will receive notification from the City or the Contractor of all citations that require personal service and the Contractor will be responsible for contacting the City's process server contractor for all civil service of process as required by law. The costs of personal service will be an additional cost assessed against the violator.

## **10.0 NOTICES OF VIOLATION**

Instead of a citation, Notices of Violation will be issued in the following instances:

- a. To owners of vehicles for violations where the gender of the registered owner does not match that of the photographed driver.
- b. Where the vehicle is registered to a business or corporation.
- c. Where the vehicle photographed does not match the description on the registration.

The Notice of Violation format must include, where applicable, the speed limit and the actual speed. Any photograph attached to the Notice of Violation will be in color and of the same quality as those attached to citations. All future modifications to Notices of Violation will be made at no expense to DPS or the City, as required by the Contract Administrator, and as agreed to by DPS.

## **11.0 DISPOSITION OF PHOTO ENFORCEMENT EQUIPMENT**

Upon termination of this Agreement for whatever reason, DPS will take ownership of the following system components:

- All camera pole foundations, below ground conduit, wiring, detection loops, and piezos.

On termination of the Loop 101 Program and this Contract Modification, the Contractor will have no obligation to restore the site to its original condition upon withdrawal from the site on Contract termination. Should Photo Enforcement Services on the Loop 101 be desired at the end of the term of this Agreement, the Contractor will cooperate in good faith in the transition from one vendor to another, permitting the new vendor, if other than the Contractor, to use any existing camera pole foundations, below ground conduit, wiring, detection loops and piezos. The Contractor will assume no responsibility or liability in any way for the continued use of this equipment by another vendor. Good faith cooperation includes the removal of its equipment described below, not more than 3 days before the end of the term, provided the rental income due the Contractor is not reduced. If the Contractor is required to remove its equipment, it will carefully disconnect each component and will not remove, cut or damage any wire connections within the poles, control cabinets, pull boxes and below ground conduit.

The Contractor will be responsible for the removal, and will retain ownership, of:

- All still cameras, enclosures and cabinets.
- All video cameras.
- All flash units and enclosures.
- All computer components connected to the above listed items.

## **12.0 REPORTING**

- a. The City will require the Contractor to submit to the City, on behalf of DPS, through the Contract Administrator, a monthly report of photo enforcement results on the Loop 101. DPS will receive copies of all reports.
- b. Monthly reports must be provided within 20 days after the end of the previous month. The report must include the following information:
  1. Total number of violations photographed, including totals by location;
  2. Total number of actionable violation images, including totals by location;
  3. Total number of non-actionable violation images by major category (i.e., face obstruction, glare, gender match, etc.);
  4. Total number of citations filed with the Scottsdale City Court.

5. Total number of violators that have responded to the court after the mailed citation;
  6. Total number of speed digital images taken by the fixed speed camera systems and the number of those images that result in citations;
  7. Total number of citations eligible for process service in state and out of state;
  8. Total number of citations actually served in state and out of state.
- c. DPS will review all reports and audits to verify the Contractor's performance to make recommendations as to program modifications and to evaluate overall program effectiveness.
  - d. The Contractor, if requested by the City on behalf of DPS, will provide any other reports and documents mutually agreed upon and useful to further the mission of reducing collisions, at no additional cost to the City or DPS.

### **13.0 BILLING AND PAYMENT; BILLING RECORDS; FEES**

#### **13.1 BILLING AND PAYMENT**

- a. The City and the Contractor have set up billing and accounting procedures acceptable to the City, providing itemized billing statements in a form approved by the City.
- b. The City will use the same billing and accounting procedures for Loop 101 citations. The Contractor will present to the City and DPS, duplicate invoices to receive payment for its services. DPS will authorize the City, within 10 days after receipt, to make payment to the Contractor based on the billing and accounting information provided by the Contractor. The billing must be at the contracted price, contain, if applicable, adjustments for additions, deletions, or changes in service and a credit for services charged but not performed.
- c. The City will make every effort to process payment for the services performed within 30 calendar days after receipt of the services and authorization of payment by DPS, and a correct invoice for amounts due, unless a good faith dispute exists concerning the invoice. Any good faith disputes will be resolved by the City, DPS and the Contractor.

#### **MAIL INVOICES TO:**

CITY OF SCOTTSDALE  
Photo Enforcement Contract Administrator  
Ass't Chief Sean Duggan  
8401 E. Indian School Road  
Scottsdale, AZ 85251

The City is not liable for delays in payment caused by failure of the Contractor to send invoices to the address specified or by the failure of DPS to authorize payment.



### **13.2 CONTRACTOR FEES**

The Contractor will be paid by the City from funds received for the Loop 101 Photo Enforcement Program. The Contractor will receive \$2761 per month for each operational Photo Enforcement site. This fee will be paid for the full monthly amount in the month a site becomes operational, and will not be prorated. The Contractor will receive a fee of \$42.48 for each speeding citation that results in a successful disposition. In addition, as compensation for completing the Police Authorization phase of citation and NOV processing, the Contractor will receive \$5.00 for each citation and NOV reaching a successful disposition. The monthly fees become effective upon the successful installation and operation of each new digital Photo Enforcement System. The average monthly number of citations that result in successful dispositions is 6,300. For Photo Enforcement sites located in construction zones only, it is agreed that if there is a drop of at least 15% in the number of successful dispositions for a period of 2 consecutive months, the Contractor may increase its citation fee by 10%. The rental fee will remain unchanged. The Contractor may receive a fee increase only one time during the term of this Agreement. The Contract Administrator will review the number of success dispositions to verify that there was a drop of at least 15% for a period of 2 consecutive months, and determine the timing of the increase. The decision of the Contract Administrator is final.

Billing and payment by the City will be in compliance with the provisions of Section 12.0 of the ATS Contract. The City will pay for violations of A.R.S. § 28-701(A) only, and no other charges. Monthly rental fees are based on an assumption of continuous 24 hours per day, 7 days per week functionality. If a fixed photo enforcement system sites becomes non-functional for any reason due to the Contractor's actions, the City will prorate payment based on actual hours of operation of the system. No deduction will be made by the City for down time with a duration of less than 48 hours. Any period of time greater than 48 hours, but less than 72 hours will be deducted as one full day. The City will continue to pay the Contractor the full monthly rental fees if any systems are non-functional due to events not within the control of the Contractor. (Example: a motor vehicle crashes into a pole destroying detection system components.)

### **13.1 REIMBURSEMENT FOR LOOP 101 CONSTRUCTION**

If during the term of this Agreement, activities related to HOV lane construction cause the relocation or reinstallation of the in-road sensors, the Contractor will be reimbursed by the City from Program funds for all costs associated with such relocation or reinstallation in an amount not to exceed \$15,000 per traffic lane. The Contract Administrator of the City will determine the timing of the reimbursement, but in no event will reimbursement be paid to the Contractor later than the 31<sup>st</sup> day of December, 2007.

### **14.0 TERMINATION**

DPS or the City may terminate this Agreement for convenience or cause upon 60 days written notice to the Contractor and the other non-terminating governmental entity. Upon termination, the City will pay to the Contractor all outstanding amounts up through the time upon which the termination becomes effective and

all subsequent periods necessary to obtain successful dispositions or final adjudications on any citations or Notices of Violation issued prior to the termination, and that have not been covered by citation revenues. All property will be returned to the owning party upon termination.

#### **15.0 INDEMNIFICATION**

For the Contractor's obligations under this Contract Modification only, the indemnification provisions of the ATS Contract are amended by the following language:

The City assumes no financial obligation or liability in connection with the installation or operation by the Contractor of any of the Photo Enforcement Systems located on the Loop 101. The Contractor, at its own expense, will defend, indemnify and hold harmless the City and the State of Arizona, its officers, officials, employees, contractors, volunteers and departments from and against all suits, legal or administrative proceedings, actions, claims, damages, losses, expenses, attorneys fees, court costs, cost of appellate proceedings, and all claim adjusting and handling expenses arising out of any negligent or intentional acts, actions, errors, mistakes or omissions during the performance of this Contract Modification.

#### **16.0 INSURANCE REPRESENTATIONS AND REQUIREMENTS**

The Contractor will insure the City as provided in the ATS Contract and this Modification Agreement, and will name the State of Arizona as an additional insured under its policies of insurance for operations on the Loop 101. During the term of this Agreement, for the protection of the City and the State of Arizona, the Contractor will increase its Commercial General Liability insurance limits to \$20,000,000 for each occurrence, \$20,000,000 Products and Completed Operations Annual Aggregate, and a \$20,000,000 General Aggregate Limit. These limits are not in addition to the insurance requirements in the ATS Contract, but are intended to state the full amount of insurance required of ATS under the ATS Contract, the Intergovernmental Agreement with DPS and this Contract Modification. Upon the termination of the Loop 101 Photo Enforcement Program, the Contractor may reduce its insurance coverages back to those required in the ATS Contract.

The Parties agree that the ATS Contract and this Contract Modification and any modifications or extension to these Contracts is not a construction contract within the meaning of A.R.S. § 41-2586.

The insurance provisions in this Contract Modification are separate and independent from the defense, indemnity and hold harmless requirements and will not be construed in any way to limit the scope and magnitude of the defense, indemnity and hold harmless provisions of this Contract Modification. The defense, indemnity and hold harmless provisions will not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions of this Contract Modification.

**17.0 CONTRACT ADMINISTRATOR**

The City's Contract Administrator will be Asst. Chief Sean Duggan and the DPS Contract Administrator will be Commander Tom Woodard. The City's Contract Administrator will be responsible for setting standards for the issuance of DPS citations pursuant to this Agreement.

**18.0 PUBLIC RECORDS REQUESTS**

DPS will be responsible for responding to all media/citizen requests for information on the Fixed Photo Enforcement System on the Loop 101, including but not limited to requests for statistical information, Notices of Violation, photographs, and video clips.

**19.0 CONFLICT OF PROVISIONS**

All terms and conditions of the ATS Contract not in conflict with the provisions of this Contract Modification will remain in full force and effect.

**20.0 THIRD PARTY BENEFICIARY**

DPS is considered a third party beneficiary to this Agreement.

**SIGNED BY** the Mayor and attested by the City Clerk the day and year written above.

CITY OF SCOTTSDALE, an  
Arizona Municipal Corporation

By: \_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

CONTRACTOR:  
American Traffic Solutions, Inc.

Reviewed and Approved

By: \_\_\_\_\_  
Adam Tuton  
Chief Operating Officer

By: \_\_\_\_\_  
Cmdr. Tom Woodward  
Department of Public  
Safety

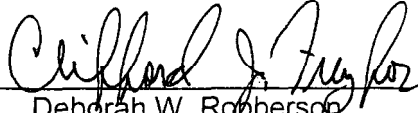
City Contract Administrator:

By: \_\_\_\_\_  
Ass't Chief Sean Duggan

By: \_\_\_\_\_  
Pauline Hecker  
Risk Management Director

By: \_\_\_\_\_  
Monroe Warren  
Purchasing Director

APPROVED AS TO FORM:

By:   
Deborah W. Robberson,  
City Attorney

**CITY OF SCOTTSDALE  
AMENDMENT TO  
PHOTO ENFORCEMENT PROGRAM CONTRACT  
WITH REDFLEX TRAFFIC SYSTEMS, INC.  
LOOP 101**

**THIS CONTRACT**, made and entered into this 19th day of June, 2007, by and between the City of Scottsdale, a Municipal corporation ("City"), and Redflex Traffic Systems, Inc., ("Contractor").

**RECITALS**

The City and Contractor entered into a contract for Photo Enforcement services for the City of Scottsdale, in Contract No. 2002-072-COS, on July 2, 2002; and

This Contract was amended by Contract No. 2002-072-COS-A1 on October 25, 2005 to develop a Photo Enforcement Program for portions of the Loop 101 within the jurisdictional limits of the City; and

The Contract, as amended, will terminate at midnight on June 30, 2007; and

Both parties desire that any citations for violations occurring prior to midnight on June 30, 2007 be properly processed and prosecuted after June 30, 2007; and

The Governor of the State of Arizona has requested that the Loop 101 Photo Enforcement System continue to operate, giving the State of Arizona time to complete a bid and selection process to operate the Photo Enforcement System on the Loop 101; and

To assist the State of Arizona and the Governor in her efforts, the City desires to extend the Contract, as amended, for a period of thirty (30) days to continue to operate 4 Loop 101 Photo Enforcement sites to assure, as much as is reasonably possible, the continuous and uninterrupted operation of the Photo Enforcement System on the Loop 101 during the change of Photo Enforcement operations from one vendor to another.

**IN CONSIDERATION** of the mutual covenants and obligations contained in this Amendment to Contract, the Parties agree as follows:

**1.0 CONTINUATION OF PROSECUTION**

The Amended Contract No. 2002-072-COS-A1 between Redflex and the City will terminate at midnight on June 30, 2007. To assure that all Loop 101 citations issued for prosecution prior to midnight, June 30, 2007 have a reasonable opportunity for successful disposition, Redflex agrees to continue processing these citations in the same manner as required under the Amended Contract, to include data exchanges between the Contractor and the Court and image transfers to the Court.

## **1.1 COMPLETION OF PROSECUTIONS**

The Contractor will continue to assist the City in the prosecution of all enforceable citations and service of process until a successful disposition has occurred, including providing any witnesses for court room testimony at either the civil traffic level or on appeal. The Contract Administrator and the Contractor will cooperate in good faith and mutually agree on an acceptable date for final termination of this Contract Amendment and the payment of any final citation fees. A successful disposition is defined as a violator paying the citation fine, attending defensive driving school or being found responsible after a court hearing.

## **2.0 RENTAL AND CITATION FEES**

For the month of July, 2007, the City will continue to pay the monthly rental fees applicable to 4 Photo Enforcement sites as was paid before June 30, 2007. The City will continue to pay the authorized fees for each citation and Notice of Violation (NOV) that reaches a successful disposition for all 6 sites as described in Section 1.1. All witnesses will continue to comply with all applicable terms and conditions required of witnesses in the Amended Contract. The fees for citations and service of process will be paid in accordance with the terms of the Amended Contract No. 2002-072-COS-A1. After July 31, 2007, the City will reimburse the Contractor for any employee time required as witnesses at the hourly rate of Fifty & No/100 (\$50.00) Dollars per hour. The Contractor will be reimbursed upon submittal of invoices in the same manner as with previous invoices.

## **3.0 EXTENSION OF AMENDED CONTRACT**

### **3.1 LOOP 101 SITES**

Listed below are the 6 Loop 101 Photo Enforcement sites. To assist in assuring that the Loop 101 Photo Enforcement System operates in a continuous and uninterrupted manner as much as is reasonably possible, the Contractor will continue to operate sites (c), (d), (e) and (f) as described in Section 3.2:

- (a) Eastbound Loop 101 at Scottsdale Road;
- (b) Westbound Loop 101 at Hayden Road;
- (c) Southbound Loop 101 at Raintree Drive;
- (d) Northbound Loop 101 at Shea Boulevard.
- (e) Southbound Loop 101 at Shea Boulevard;
- (f) Northbound Loop 101 at Cactus Road;

### **3.2 SCHEDULE OF SITE CLOSURES**

The Contractor agrees to continue to operate the Photo Enforcement Sites, in compliance with this Amended Contract and Amended Contract No. 2002-072-COS-A1, from midnight, June 30, 2007, through midnight, July 20, 2007. The operation of each of these sites will be shut down in the following phases:

- a. At midnight on June 30, 2007, the Contractor will shut down the electricity, cameras and computer systems to Sites (a) and (b), identified in

Section 3.1. No rental fees will be paid for these two sites, but citation fees will be paid as provided in Section 2.0. The Contractor will have 45 days to remove any or all of its equipment as directed by the Arizona Department of Transportation from the freeway locations at the sole cost of the Contractor, except that cameras, computers, flashes, detection equipment other than in-road sensors, and any other proprietary elements shall be removed within 6 days of shut down.

b. At midnight on July 10, 2007, the Contractor will shut down the electricity, cameras and computer systems to Sites (c) and (d), identified in Section 3.1. The City will continue to pay the monthly rental fees as paid before Contract termination for the full month of July, 2007. The citation fees will be paid as provided in Section 2.0. The Contractor will have 45 days to remove all of its equipment as directed by the Arizona Department of Transportation from the freeway locations at the sole cost of the Contractor, except that cameras, computers, flashes, detection equipment other than in-road sensors, and any other proprietary elements shall be removed within 6 days of shut down.

c. At midnight on July 20, 2007, the Contractor will shut down the electricity, cameras and computer systems to Sites (e) and (f), identified in Section 3.1. The City will continue to pay the monthly rental fees as paid before Contract termination for the full month of July, 2007. The citation fees will be paid as provided in Section 2.0. The Contractor will have 45 days to remove all of its equipment as directed by the Arizona Department of Transportation from the freeway locations at the sole cost of the Contractor, except that cameras, computers, flashes, detection equipment other than in-road sensors, and any other proprietary elements shall be removed within 6 days of shut down.

d. The Contractor agrees that at the time of the removal of any remaining poles, bases or foundations at its various sites, it will do so in a good and workmanlike manner and will not damage or interfere with any American Traffic Solutions (ATS) equipment located at any of the 6 sites, nor will (ATS) or its agents damage or interfere with any of contractor's equipment. The Contractor will be responsible for any costs incurred in repairing any damage done by its employees to ATS equipment in removing its poles, bases and foundations, and ATS shall be responsible for any such costs for damage of or repair to contractor's equipment. The City of Scottsdale permit with ADOT must be revised to set forth all activities that will be carried out by Redflex on the Loop 101 right of way to remove any of the Redflex equipment. Redflex will remove, at its expense, the two large Photo Enforcement Signs located in the Loop 101 right of way on or before August 1, 2007. Redflex will not remove the in-road sensors from the Loop 101 pavement.

#### **4.0 ADOT PERMITTING**

The City and the Contractor understand that the schedule of site closures and restoration established in Section 3.2 is dependent on receiving the necessary permits from ADOT. The City has entered into an Intergovernmental Agreement with the Arizona Department of Public Safety (DPS). DPS has agreed to use its best efforts to assist the Contractor in obtaining the necessary permits after the Contractor makes proper application. If there is any delay in obtaining the permits

through no fault of the Contractor, the schedule of closures will slide back by the number of days of delay that occurred in obtaining the required permits.

## 5.0 APPLICABILITY OF TERMS OF AMENDED CONTRACT

All the terms of the Amended Contract No. 2002-072-COS-A1 are fully applicable to this Amendment, except where there is a conflict, and where there is a conflict, the provisions of this Amendment control.

## 6.0 RECITALS

The Recitals are, by this reference, made a part of this Contract.

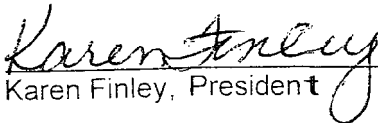
## 7.0 EFFECTIVE DATE

This Contract Amendment will be effective on the day and year approved by the Scottsdale City Council.

SIGNED as of the day and year written above.

REDFLEX TRAFFIC SYSTEMS, INC.

By:

  
Karen Finley, President

CITY OF SCOTTSDALE, an  
Arizona Municipal Corporation

By:

\_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

By:


\_\_\_\_\_  
Carolyn Jagger, City Clerk

CITY OF SCOTTSDALE REVIEW:

By:

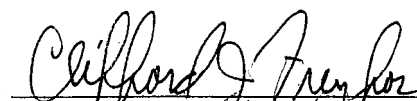
\_\_\_\_\_  
Monroe C. Warren, Purchasing  
Director

By:

  
Bruce Kalin  
Contract Administrator

APPROVED AS TO FORM:

By:

  
Deborah W. Robberson  
City Attorney



RESOLUTION NO. 7295

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING CONTRACT NO. 2007-063-COS WITH AMERICAN TRAFFIC SOLUTIONS, INC. ADDING PHOTO ENFORCEMENT SERVICES ON THE LOOP 101 AND APPROVING AN AMENDMENT TO CONTRACT NO. 2002-072-COS-A2, EXTENDING THE REDFLEX CONTRACT FOR LOOP 101 PHOTO ENFORCEMENT SERVICES, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY, AUTHORIZING THE CITY OF SCOTTSDALE TO OPERATE THE LOOP 101 PHOTO ENFORCEMENT PROGRAM FOR A LIMITED PERIOD OF TIME

The City has been operating a Photo Enforcement program on the Loop 101 Freeway within the City of Scottsdale for approximately 9 months; and

The Governor for the State of Arizona has requested that the City continue to operate the Photo Enforcement program on the Loop 101 after the June 30, 2007 Redflex contract termination date, until the State of Arizona can complete a bid process to select a Loop 101 Photo Enforcement vendor for a State-run program; and

Through a competitive bid process, American Traffic Solutions, Inc. was selected and is qualified to render the necessary enforcement services desired by the City and as a part of that bid process, was also required to provide any Loop 101 services to the City of Scottsdale; and

To assure that the transfer of Photo Enforcement services continues from one vendor to another with as little interruption as possible, it is desirable to extend the Redflex Contract by approximately thirty (30) days to allow the uninterrupted transfer of Loop 101 Photo Enforcement operations from Redflex to American Traffic Solutions, Inc.; and

The City and the Arizona Department of Public Safety have agreed to enter into an Intergovernmental Agreement for the installation, operation and prosecution of Loop 101 speeding citations for a prescribed period of time.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The City Council approves the modification to the American Traffic Solutions, Inc. contract to operate the Photo Enforcement System on the Loop 101 within the City of Scottsdale and authorizes the Mayor to sign Contract Amendment No. 2007-063-COS-A1 on behalf of the City of Scottsdale.

Section 2. The City Council approves the amendment to Contract Amendment No. 2002-072-COS-A3, extending the contract with Redflex Traffic Systems, Inc. for Loop 101 Photo Enforcement services to midnight, July 26, 2007 and the completion of citation enforcement services, and authorizes the Mayor to sign the amendment.

Section 3. The City Council approves the Intergovernmental Agreement No. 2007-092-COS with the Arizona Department of Public Safety to provide Loop 101 Photo Enforcement Services and prosecution of all citations through the Scottsdale City Court, and authorizes the Mayor to sign the Agreement.

PASSED AND ADOPTED by the City Council of the City of Scottsdale, Arizona this 19th day of June, 2007.

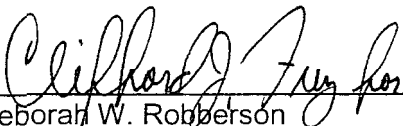
ATTEST:

City of Scottsdale, an  
Arizona Municipal Corporation

\_\_\_\_\_  
Carolyn Jagger, City Clerk

\_\_\_\_\_  
Mary Manross, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deborah W. Roberson  
City Attorney

**WHEN RECORDED RETURN TO:**

Lila Madden (Assistant Chief Sean Duggan)  
ONE STOP SHOP RECORDS  
City of Scottsdale  
7447 E. Indian School Road, Suite 100  
Scottsdale, Arizona 85251

**INTERGOVERNMENTAL AGREEMENT**

This Agreement ("Agreement") is made and entered into this 19<sup>th</sup> day of June, 2007, by and between the City of Scottsdale, a municipal corporation of the State of Arizona ("City") and the State of Arizona through its Department of Public Safety ("DPS").

**RECITALS**

1. Arizona Revised Statutes Sections 11-951, et. seq. provides that public agencies, including cities and agencies of the state, may enter into intergovernmental agreements for the provision of services, or for joint cooperative action; and

2. Article 1, Section 3-1 of the City Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies, including agencies of the state; and

3. Arizona Revised Statute Section 41-1713(B) authorizes the State of Arizona Department of Public Safety to enter into intergovernmental agreements with various public agencies, including political subdivisions of the state; and

4. The City conducted a successful Photo Enforcement Demonstration Program on the Loop 101 and DPS has requested that the City enter this Agreement to continue Photo Enforcement on the Loop 101 at no more than 6 sites; and

5. The purpose of this Agreement is to enhance public safety through the provision of Photo Enforcement to enforce state traffic laws on the portion of the Loop 101 (SR 101) within the geographic limits of the City, through the cooperative efforts of the parties to this Agreement; and

6. After a competitive bid process, the City awarded its Photo Enforcement Contract for local streets to American Traffic Solutions, Inc ("ATS") pursuant to Scottsdale Contract No. 2007-063-COS (the ATS Contract), approved by the Scottsdale City Council and effective on July 1, 2007. As a part of the Request for Proposals for that competitive bid process, the City was required to negotiate with the successful bidder for any Photo Enforcement Program on the Loop 101 after June 30, 2007. A copy of the ATS Contract is attached as Exhibit A. A copy of the Contract Modification with ATS for Photo Enforcement on the Loop 101, Scottsdale No.

2007-063-COS-A1 (the Contract Modification Agreement), is attached as Exhibit B; and

7. To assure the continuous operation of the Loop 101 Photo Enforcement System, the City has extended existing Redflex Traffic Systems, Inc. contract, Contract No. 2002-072-COS-A3, for an additional 30 days, providing for a staggered shut down of the Redflex System and the completion by Redflex of the processing of citations and Notices of Violation ("NOV's").

## **TERMS**

**NOW THEREFORE, IN CONSIDERATION** of the mutual covenants and promises contained in this agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **1.0 Recitals:**

All Recitals are specifically incorporated into this Agreement by this reference.

### **2.0 Term of Agreement:**

The City will provide for the installation and operation of up to 6 Fixed Speed Photo Enforcement Systems on the Loop 101 within the geographical boundaries of the City. This Agreement will be effective on July 1, 2007 and terminate on December 31, 2007. Any extensions of this Agreement by the City may be authorized by the City Manager for a period of not more than 60 days.

#### **2.1 Installation of Equipment:**

The Arizona Department of Public Safety (DPS) will work with the ATS to expedite any necessary permitting and approvals for all construction, installation and testing work required to be conducted by the Contractor. The incumbent vendor has agreed to terminate its photo enforcement operations at Sites (a) and (b) described in Section 2.3 below at midnight on June 30, 2007. ATS has agreed to have these two Photo Enforcement Systems fully operational no later than midnight, July 15, 2007. The incumbent vendor has agreed to terminate its Photo Enforcement operations on Sites (c) and (d) listed below at midnight, July 10, 2007. ATS has agreed to be fully operational at these two sites no later than midnight, July 21, 2007. The incumbent vendor has agreed to terminate its Photo Enforcement operations on Sites (e) and (f) at midnight, July 20, 2007. ATS has agreed to be fully operational at these two sites no later than midnight, July 31, 2007. To meet this schedule, DPS will use its best efforts to assist in expediting all necessary permitting and approvals to meet the desired schedule. DPS understands that the obligation of ATS to meet this schedule is contingent on obtaining and retaining the necessary Permit to use state highway right of way. All installation and operation of the Systems will be in full conformance with the terms and conditions of ATS Contract, subject only to differences in the required types of photo enforcement equipment for use on the Loop 101 and the permitting and installation requirements of the Arizona Department of Transportation (ADOT). If the

State revokes the permit at a later date, the provisions of this Agreement and all obligations of the City and ATS are void, and this Agreement will immediately terminate.

## **2.2 Redflex Removal of Equipment:**

The City has agreed that Redflex will have 45 days to remove all of its equipment as directed and permitted by the DPS from the 6 freeway locations at the sole cost of Redflex, except that it has been agreed that the cameras, computers, flashes, detection equipment other than in-road sensors, and any other proprietary elements will be removed within 6 days of shutting down each site. It has further been agreed that at the time of removal of any remaining poles, bases or foundations at its 6 sites, Redflex will remove any remaining Redflex improvements in a good and workmanlike manner and will not damage or interfere with any ATS equipment that may be located at any near-by sites. The City has been informed by ADOT that the City of Scottsdale's permit with ADOT must be revised to set forth all activities that will be carried out by Redflex on the Loop 101 right of way to remove any of the Redflex equipment. Redflex has further agreed with the City that it will remove, at its expense, the two large Photo Enforcement Signs located in the Loop 101 right of way on or before August 1, 2007, and that Redflex will not remove the in-road sensors from the Loop 101 pavement.

## **2.3 Selected Enforcement Sites:**

It is agreed that the selected sites, as specified below, will be installed and activated in this order of priority:

- a. Eastbound Loop 101 at Scottsdale Road;
- b. Westbound Loop 101 at Hayden Road;
- c. Southbound Loop 101 at Raintree Drive;
- d. Northbound Loop 101 at Shea Boulevard;
- e. Southbound Loop 101 at Shea Boulevard;
- f. Northbound Loop 101 at Cactus Road.

## **3.0 DPS Participation:**

As a part of its Agreement with the City, ATS has agreed to be responsible for the issuance of all citations from the Loop 101 Photo Enforcement sites on behalf of DPS. In compliance with Arizona law, DPS will assign an authorized person(s) to sign the citations and NOV's. It is understood that the signature will be an electronic signature inserted by ATS employees legally authorized to sign citations by DPS. DPS will assign staff sufficient to ensure that citations and other Photo Enforcement operations are completed in a timely manner. All citations must be cited into Scottsdale Municipal Court ("City Court"). ATS has agreed with the City to provide these services on behalf of DPS for a fee of not more than \$5.00 for each citation and NOV reaching a successful disposition. All revenues derived from the citations will remain with the City and be disposed of as directed by law. All surcharges will be transmitted to the State as required by law.

### **3.1 Posting of Required Signage:**

On behalf of DPS, ATS has agreed that it will post the required Photo Enforcement signage required by A.R.S. §28-654, as amended, on the Loop 101 at its expense.

### **4.0 Enforcement Standards:**

In all instances, DPS will determine the appropriate speed enforcement margin for all Photo Enforcement sites. DPS will work with ATS and ADOT to arrive at an acceptable solution for any Photo Enforcement work DPS may desire in construction zones.

### **5.0 City Participation:**

In compliance with its Procurement Code, the City will select the vendor to provide service of process for all Photo Enforcement service of process. The City will provide all necessary court and prosecution services for photo enforcement citations issued by DPS during this Agreement.

### **6.0 Reimbursement:**

Should the City's expenses exceed net revenues derived from the successful disposition of citations or NOV's, DPS will reimburse the City in full for expenses incurred as a result of the City's performance of this Agreement in operating the Loop 101 Photo Enforcement program. If there is a disagreement about reimbursement, the parties agree that either party can cancel the agreement with thirty (30) days notice. The City will submit such invoice to DPS within 120 days after termination of this Agreement. DPS agrees to reimburse the City within sixty (60) days after presentation by the City of an invoice itemizing the expenses incurred. As used in this Agreement, the phrase "successful disposition" is defined as a citation in which the violator has plead to the charge, is found responsible or attends defensive driving school. Prior to the execution of the IGA the City shall provide the DPS with any overhead allocation to be applied in determining program expenses. The following is a list of items that will be included as expenses that must be covered by the Loop 101 Photo Enforcement Program income.

a. The costs of attorney prosecution services provided by the City will be calculated based on a cost of \$4,200 per month for each month this Agreement is in effect.

b. If during the term of this Agreement, activities related to HOV lane construction cause the relocation or reinstallation of in-road sensors, ATS will be reimbursed by the City for all costs associated with such relocation or reinstallation in an amount not to exceed \$15,000 per traffic lane. The Contract Administrator of the City will determine the timing of the reimbursement, but in no event will reimbursement be paid to ATS later than the 31<sup>st</sup> day of December, 2007.

- c. Police costs, as approved by DPS, including but not limited to, the following:
1. Contract Costs, including Photo Enforcement site fees and citation fees.
  2. Service of Process
  3. Operating Supplies/Equipment in direct support of the program, i.e., office supplies.

- d. Court Costs, as approved by DPS, including but not limited to, the following:
  - 1. Banking Service fees directly related to payments of fines with credit cards.
  - 2. Contract workers' salaries and applicable supervisory and training costs directly related to servicing Loop 101 Citations and NOV's.
  - 3. Operating Supplies/Equipment in direct support of the program, i.e. office supplies.

Both parties recognize the limited time available to determine what City operational expenses are reimbursable in the event there is a shortfall in income vs. expenses. It is agreed that on or before July 1, 2007, the parties will negotiate in good faith to arrive at an acceptable list of what are reimbursable expenses, and will agree in writing as to a list of all approved expenses that may be charged to the Photo Enforcement Program.

- e. The City shall provide for the following:
  - 1. Reports of current revenues and expenditures for the program to date, including Banking Service fees as outlined in Section 6.0d1.
  - 2. Monthly reports of revenues and expenditures for the Program during the IGA period.
  - 3. The basis for any significant variations from current program revenues and expenditures.

#### **7.0 DPS Authorization Processes:**

On behalf of DPS, ATS will perform the Police Authorization Phase of the Citation subject to the requirements of Arizona law that DPS authorized personnel must sign citations and NOV's. DPS will assure that its signing of citations and all other actions it takes in processing any citations or NOV's will be in accordance with Arizona law and reasonable ATS time requirements as determined by DPS. DPS personnel will appear as witnesses in court hearings, as required, and work with the City Prosecutor staff to insure the timely disposition of Citations.

#### **8.0 DPS Compatibility with City Court and ATS Systems:**

DPS agrees to access and utilize the ATS software system, and will run ATS authorized web based applications on their work stations. DPS will be responsible for the costs of purchase and installation of any necessary software and hardware to make its systems compatible with the City Court and ATS. DPS will comply with these requirements on or before July 15, 2007.

#### **9.0 Vehicle Registrations and Driver's License Information:**

Vehicle registration and driver's license information is required to issue citations and NOV's. For Arizona drivers and registered vehicles, DPS will make this information available to ATS at no cost. ATS must obtain out-of-state registration and driver's license information, if available, at its sole expense, within the times required for issuing citations. When the state of issuance provides to ATS registration and driver's license expiration dates and status (e.g., Expired, Cancelled, Suspended, Revoked, ID Card Only), ATS will forward this information to DPS and

the City. ATS will be receiving this information as an agent of DPS.

#### **10.0 Citation Format and Tracking:**

- a. All citations will be in a format approved by the Scottsdale City Court and the Arizona Supreme Court.
  1. Information mailed to defendants must include:
    - A. Citation
    - B. Photograph
    - C. Options for defendant
    - D. General photo enforcement information approved by DPS
  2. Information mailed to defendants may need to be updated on occasion due to changes in court processes and or legislation. ATS will make changes to the ATS system in a timely manner and be responsible for any costs to make such changes and postage. Any cost to change Court software will be the responsibility of the Court.
- b. All citations must bear a unique citation number as directed by the Scottsdale City Court for tracking purposes (numbers must not duplicate each other or existing City numbers). The current requirements are that citation numbers consist of 8 digits. Each citation must contain the digital signature of an authorized DPS official.
- c. The digital format of the citation available during the DPS Authorization stage must include a drop-down menu to allow adding to the speed violation additional observable traffic infractions, to include A.R.S. §28-2153, Expired Vehicle License; A.R.S. §28-2354, License Plate, Attachment; A.R.S. §28-2533, Failure to Register; A.R.S. § 28-751 and such other infractions as may be required by DPS. These functions are not required for initial implementation and will coincide with the same functionality being implemented for the existing Contract between ATS and the City.

#### **11.0 Service of Citation:**

- a. ATS will bear all costs for the mailing of citations, NOV's, photographs/copies of photographs, printing, and other associated costs and expenses required to manage a professional processing center.
- b. Citations (initial or as a result of nominations) must be mailed by ATS and postmarked by regular first class mail within 3 days after approval through the DPS Authorization process. DPS will complete its review and approval process within 10 days after receiving the citation record from ATS. All processing must comply with City Court rules and state and city laws and regulations.



- c. The citation must be accompanied by specific, clear instructions. If there is no response within 30 days after mailing of the original citation to the violator, a copy of the citation and the violation photograph will be sent to DPS and the City by ATS, at no additional cost to DPS or the City. A copy of the citation and the violation photograph will be personally served on the violator pursuant to the City's process server contract in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service. Personal service will be in accordance with Arizona Rules of Civil Procedure Rule 4.1 that governs Service of Process upon individuals. Personal service must be commenced within 45 days of the violation.
- d. DPS will receive notification from ATS of all citations that require personal service and ATS will be responsible for contacting the City's process server contractor for all civil service as required by law. The costs of personal service will be an additional cost assessed against the violator. Personal service costs not assessed against the violator shall be paid with citation revenues.

## **12.0 Notices of Violation:**

Instead of a citation, Notices of Violation ("NOV's") will be issued in the following instances:

- a. To owners of vehicles for violations where the gender of the registered owner does not match that of the photographed driver.
- b. Where the vehicle is registered to a business or corporation.
- c. Where the vehicle photographed does not match the description on the registration.

The NOV format must include, where applicable, the speed limit and the actual speed. Any photograph attached to the NOV will be in color and of the same quality as those attached to citations. All future modifications to NOV's will be made at no expense to DPS or the City as required by the Contract Administrator of the City, and as agreed to by DPS.

## **13.0 Reporting:**

- a. The City will require ATS to submit to the City, on behalf of DPS, through the Contract Administrator, a monthly report of photo enforcement results on the Loop 101. DPS will receive copies of all reports.
- b. Monthly reports must be provided within 20 days after the end of the previous month. The report must include the following information:
  - 1. Total number of violations photographed;
  - 2. Total number of actionable violation images;

3. Total number of non-actionable violation images by major category (i.e., face obstruction, glare, gender match, etc.);
  4. Total number of citations filed with the Scottsdale City Court.
  5. Total number of violators that have responded to the court after the mailed citation;
  6. Total number of speed digital images taken by the fixed speed camera systems and the number of those images that result in citations;
  7. Total number of citations eligible for process service in state and out of state;
  8. Total number of citations actually served in state and out of state.
- c. DPS will review all reports and audits to verify ATS' performance to make recommendations as to program modifications and to evaluate overall program effectiveness.
  - d. ATS, if requested by the City, on behalf of DPS, will provide any other reports and documents mutually agreed upon and useful to further the mission of reducing collisions, at no additional cost to the City or DPS.

#### **14.0 Billing and Payment; Billing Records; Fees:**

##### **14.1 Billing and Payment:**

- a. The City and ATS have set up billing and accounting procedures acceptable to the City, providing itemized billing statements in a form approved by the City.
- b. The City will use the same billing and accounting procedures for Loop 101 citations. ATS will present to the City and DPS, duplicate invoices to receive payment for its services. DPS will authorize the City, within 10 days after receipt, to make payment to ATS based on the billing and accounting information provided by ATS. The billing must be at the contracted price, contain, if applicable, adjustments for additions, deletions, or changes in service and a credit for services charged but not performed.
- c. The City will make every effort to process payment for the services performed within 30 calendar days after receipt of the services and authorization of payment by DPS, and a correct invoice for amounts due, unless a good faith dispute exists concerning the invoice. Any good faith disputes will be resolved by the City, DPS and ATS.

##### **MAIL INVOICES TO:**

CITY OF SCOTTSDALE  
Photo Enforcement Contract Administrator  
Attention: Ass't Chief Sean Duggan

8401 E. Indian School Road  
Scottsdale, AZ 85251

The City is not liable for delays in payment caused by failure of ATS to send invoices to the address specified or by the failure of DPS to authorize payment.

#### **14.2 ATS Fees:**

ATS will be paid by the City from funds received for the Loop 101 Photo Enforcement Program. ATS will receive \$2,761 per month for each operating Photo Enforcement site. ATS will receive a fee of \$42.48 for each speeding citation that results in a successful disposition. In addition, as compensation for completing the Police Authorization phase of citation and NOV processing, ATS will receive \$5.00 for each citation and NOV reaching a successful disposition. The monthly fee becomes effective upon the successful installation, activation and full operation of the digital Fixed Speed Photo Enforcement System. The average monthly number of citations that result in successful dispositions is 6,300. For Photo Enforcement sites located in construction zones only, it is agreed that if there is a drop of at least 15% in successful dispositions for a period of 2 consecutive months, ATS may increase its citation fee by 10% provided the decrease is not a result of vendor error. The rental fee will remain unchanged. ATS may receive a fee increase only one time during the term of this Agreement. The City's Contract Administrator will review the number of successful dispositions to verify that there was a drop of at least 15% for a period of 2 consecutive months and determine the timing of the increase. The decision of the Contract Administrator is final.

The City will pay for violations of A.R.S. § 28-701(A) only, and no other charges. Monthly rental fees are based on an assumption of continuous 24 hours per day, 7 days per week functionality. If a photo enforcement system at a site becomes non-functional for any reason due to ATS actions, the City will prorate payment based on actual hours of operation of the system. No deduction will be made by the City for down time with a duration of less than 48 hours. Any period of time greater than 48 hours, but less than 72 hours will be deducted as one full day. The City will continue to pay ATS the full monthly rental fees if any systems are non-functional due to events not within the control of ATS. (Example: a motor vehicle crashes into a pole destroying detection system components.)

#### **15.0 Disposition of Fixed Speed Enforcement Equipment:**

Upon termination of this Agreement for whatever reason, DPS will take ownership of the following system components:

- All camera pole foundations, below ground conduit, wiring, detection loops, and piezos.

Should Photo Enforcement Services on the Loop 101 be desired at the end of the term of this Agreement, ATS will cooperate in good faith in the transition from one vendor to

another, permitting the new vendor to use any existing detection system poles and foundations, below ground conduit, wiring, detection loops and piezos. Good faith cooperation includes the removal of its equipment described below, not more than 3 days before the end of the term, if requested, provided the rental income due ATS is not reduced. If ATS is required to remove its equipment, it will carefully disconnect each component and will not remove, cut or damage any wire connections within the poles, control cabinets, pull boxes and below ground conduit.

**ATS will be responsible for removal, and will retain ownership of:**

- All still cameras, enclosures and cabinets.
- All video cameras.
- All flash units and enclosures.
- All computer components connected to the above listed items.

**16.0 Nondiscrimination:**

All parties agree to comply with the non-discrimination provisions of the Governor's Executive Order 99-4.

**17.0 Indemnification:**

It is understood that ATS has agreed to defend, indemnify and hold harmless both the City of Scottsdale and the State of Arizona for the Loop 101 Photo Enforcement program in accordance with the terms of the ATS Modification Contract.

The City assumes no liability or financial obligation in connection with the installation or operation of any fixed photo enforcement sites or systems located on the Loop 101 by ATS ("Loop 101 Program") on or after July 1, 2007. The State of Arizona ("State") assumes full responsibility and liability for the Loop 101 Program, effective July 1, 2007. The State, its successors, assigns and guarantors, shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials, and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to attorneys fees, court costs and the cost of appellate proceedings, and all claim adjusting and handling expenses related to, arising out of or from or resulting or related in any manner to the Loop 101 Program on or after July 1, 2007.

**17.1 Insurance Representations and Requirements:**

The City, in its modified contract with ATS, will require that ATS name the State of Arizona as an additional insured under its policies of insurance for operations on the Loop 101. During the term of this Agreement, ATS will increase its Commercial General Liability insurance limits to \$20,000,000 for each occurrence, \$20,000,000 Products and Completed Operations Annual Aggregate, and a \$20,000,000 General Aggregate Limit. These limits are not in addition to the insurance requirements in the ATS Agreement, but are intended to state the full amount of insurance required of ATS under the ATS Contract, the Contract Modification Agreement and this Intergovernmental Agreement.

The Parties agree that this Agreement and any modifications or extension to it is not a construction contract within the meaning of A.R.S. § 41-2586.

**18.0 Termination:**

Either party may terminate this Agreement for convenience or cause upon thirty (30) days written notice to the other party. Upon termination, the City will pay all outstanding amounts up through the time upon which the termination becomes effective and all subsequent periods necessary to obtain successful dispositions or final adjudications on any citations or Notices of Violation issued prior to the termination, and that have not been covered by citation revenues. All property will be returned to the owning party upon termination.

**19.0 Notices:**

Any notice required to be given under this Agreement will be provided by mail to:

Commander Tom Woodward  
Arizona Department of Public Safety  
Post Office Box 6638  
Phoenix, Arizona 85005

Ass't Chief Sean Duggan  
Scottsdale Police Department  
8401 E. Indian School Rd.  
Scottsdale, Arizona 85251

**20.0 Cancellation:**

All parties are put on notice that this contract is subject to cancellation by the Governor for conflicts of interest, pursuant to A.R.S. §38-511. Each party acknowledges that the other has the statutory right for 3 years to cancel this Agreement if, while this Agreement or any extension is in effect, any person significantly involved in negotiating, drafting or securing this agreement on behalf of any party is (i) an employee or agent of the other party in any capacity, or (ii) a consultant to the other party with respect to the subject matter of this Agreement, as provided pursuant to A.R.S. § 38-511.

**21.0 Recordkeeping:**

All records regarding this Agreement must be retained for 5 years in compliance with A.R.S. § 5-214, entitled Inspection and Audit of Contract Provisions.

**22.0 Effective Date:**

This Agreement will become effective upon the execution of 2 originals by the parties, and upon one original being filed with the Arizona Secretary of State.

**23.0 Public Records Requests:**

DPS will be responsible for responding to all media/citizen requests for information on the Fixed Photo Enforcement System on the Loop 101, including but not limited to requests for statistical information, NOV's, photographs, and video clips.

**24.0 Arbitration:**

In the event of a dispute under this agreement, the parties agree to use arbitration to the extent required under A.R.S. §§ 12-1518 and 12-133.

**25.0 Contract Administrators:**

The City's Contract Administrator will be Asst. Chief Sean Duggan and DPS' Contract Administrator will be Commander Tom Woodward. The City's Contract Administrator will be responsible for setting standards for the issuance of DPS citations pursuant to this Agreement.

**26.0 Permits:**

DPS agrees to assist ATS in obtaining any necessary federal, state and local permits including ADOT Right of Way Use Permits in support of the obligations under this Agreement.

**26.0 Third Party Beneficiary:**

ATS is considered a third party beneficiary to this Agreement.

**THE PARTIES** subscribed their names the day and year written above.

State of Arizona

City of Scottsdale, an Arizona municipal corporation

By: \_\_\_\_\_  
Director, DPS

By: \_\_\_\_\_  
Mary Manross, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

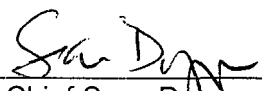
Attest:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

Reviewed and Approved

Reviewed and Approved

\_\_\_\_\_  
Cmdr. Tom Woodward  
Department of Public Safety

  
\_\_\_\_\_  
Ass't Chief Sean Duggan  
Scottsdale Police Department

Reviewed and Approved

  
\_\_\_\_\_  
Adam Tuton, Chief of Operations  
American Traffic Solutions, Inc.

#### INTERGOVERNMENTAL AGREEMENT DETERMINATION

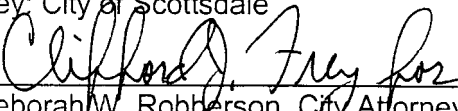
In accordance with A.R.S. §11-952, this Agreement has been reviewed by the undersigned who determined that this Agreement is in appropriate form and is within the powers and authority of the respective parties.

Attorney General

By: \_\_\_\_\_  
Assistant Attorney General  
Attorney for DPS

Date: \_\_\_\_\_

Attorney: City of Scottsdale

By:   
Deborah W. Robberson, City Attorney

Date: June 14, 2007

Exhibit "A"



**CITY OF SCOTTSDALE**

**PHOTO ENFORCEMENT PROGRAM**

**AMERICAN TRAFFIC SOLUTIONS, INC.**

**CONTRACT # 2007- 063 - COS**



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Exhibit "A"



**CONTRACT  
CITY OF SCOTTSDALE  
PHOTO ENFORCEMENT PROGRAM**

THIS CONTRACT is between the City of Scottsdale, an Arizona municipal corporation, and American Traffic Solutions, Inc., an Arizona Corporation.

**RECITALS**

- A. The City desires to contract for a traffic safety Photo Enforcement Program; and
- B. The City has adopted a Focus on Safety Program consisting of education, awareness and photo enforcement elements; and
- C. The Contractor submitted a proposal that is in the best interests of the City; and
- D. The Contractor is qualified to perform the requested services.

**IN CONSIDERATION** of the covenants and obligations contained in this Agreement, the Parties agree as follows:

**1.0 DESCRIPTION, ACCEPTANCE, DOCUMENTATION**

The Contractor will act under the authority and approval of the Contract Administrator for the City to provide the general services required by this Contract resulting from the City of Scottsdale Request for Proposal # 07RP012 dated February 2, 2007.

**1.1 TERM OF CONTRACT**

The initial term of this contract will commence on July 1, 2007 and will continue for 3 years. Upon recommendation of the Contract Administrator and approval of the City Council, the City reserves the option to extend this contract for 2 additional one-year periods, resulting in no more than a total of 5 years under this Contract. Upon award of the Contract by the City Council, the Contractor will immediately begin the design of the system as outlined in Section 5.1.2 of its Proposal dated February 6, 2007.

## **1.2 SERVICE DESCRIPTION**

This Contract consists of the solicitation and solicitation agenda, instructions, this Photo Enforcement Contract and all terms and conditions in the Request for Proposal, any Addenda, the Scope of Work, attachments, and any amendments to all these documents, and the Proposal submitted by the Contractor in response to the solicitation. In the event of a conflict in language between the solicitation documents and the Proposal, the provisions and requirements in the solicitation must govern. This Photo Enforcement Contract will control over the Proposal and the solicitation. However, the City reserves the right to clarify any contractual terms in writing with the agreement of the Contractor.

## **2.0 GENERAL REQUIREMENTS FOR MOBILE PHOTO RADAR VANS, FIXED SPEED CAMERA SYSTEMS, AND RED LIGHT SPEED ON GREEN SYSTEMS.**

- a. Each photo enforcement camera system ("System") must be in compliance with the following:
  1. Equipped to detect a violating vehicle, activate the camera system, and produce color images of the vehicle front and rear. Digital camera technology is required. Additionally, each system must be capable of clearly photographing and recording the identification of the driver of the vehicle reasonably believed to have been operating the vehicle in a manner violating the posted speed limit or failing to stop for a red traffic signal. Cameras must be capable of consistently obtaining an image of the front of those vehicles so as to clearly identify any driver. Cameras must also obtain a clear image of the rear of the vehicle to clearly identify the rear license plate. Images must be clearly discernible and visible to the naked eye without the use of enhancement equipment. Each system must be capable of consistently photographing drivers and license plates regardless of glare or materials used to obscure the license plate from clear view at various viewing angles.
  2. Capable of performing internal calibration tests for speed measurement, accuracy and functionality. Evidence of this testing must be imprinted on the image. Test failures must prevent further operation of the unit. The internal tests should provide a visual or auditory signal, or both, clearly indicating the operational accuracy or lack of accuracy. A series of error messages must be displayed to inform the operator of the problems with the system, while in the deployment mode. The Contract Administrator must be notified on the same day of any problems with cameras, including downtime, inability to upload data, or errors that could impact the validity of the citation. The Contractor is responsible for all actual costs to the City attributable to Contractor error.
  3. Capable of accurately measuring speeds and recording clear images of vehicles and drivers either approaching or departing the camera.
  4. Capable of gathering detailed computer data for statistical analysis and histograms for submission at hearings. The Contractor will be required to produce monthly reports of activity and individual histograms for court purposes as needed.

5. Capable of accurately monitoring several traffic lanes at once.
  6. As automated as possible with regard to set up, e.g., aperture settings, focusing, and leveling.
  7. Equipped with a computer interface.
- b. The City, at its sole discretion, reserves the right to reject any equipment that does not meet adequate technical standards.
  - c. Cameras must have the ability to operate effectively during periods of nighttime operation and all weather conditions, including extreme heat.
  - d. There must be no minimum number or quota of violations to be generated through the use of the photo enforcement technology.
  - e. For red light camera systems, the delay must be set to take photographs of vehicles that enter the intersection 0.3 second after the signal light has turned red, unless modified by the Contract Administrator.
  - f. In this Contract, Speed on Green also includes Speed on Yellow and Red Lights.
  - g. All camera and radar equipment, including any appurtenances provided by the Contractor shall be equivalent to or better than that described in the Contractor's Proposal dated February 6, 2007.

### **3.0 MOBILE SPEED CAMERA/RADAR**

#### **3.1 SPEED CAMERA/RADAR SYSTEMS**

- a. Radar units must be capable of recording speeds within a tolerance of  $\pm 1$  mile per hour of the actual speed of a target vehicle.
- b. Radar equipment must be capable of performing an external tuning fork calibration test with results printed onto electronic imaging equipment. Contractor technicians must be prepared to testify in Court at Contractor expense. Calibration must include the serial number of each unit being tested.
- c. Each speed camera/radar system must contain sufficient imaging, radar, computer, and any other associated equipment needed to record, document, and track a vehicle and driver believed to be violating the posted speed limit under all weather conditions.
- d. Each unit must be equipped with a computer interface.

#### **3.2 VEHICLES**

- a. The Contractor must provide 4 fully equipped and automated mobile speed camera/photo radar vehicles. The Contractor will have a minimum of 4 speed vehicles fully operational at 6:00 a.m. on July 1, 2007, provided that the Scottsdale City Court and the Contractor have sufficiently completed their integration of systems

to permit the proper systems operation, even though the full scope of desired software functionality and integration may not be available until after July 1, 2007. It is agreed that Court and Contractor integration may be limited to processing citations for left, right, and straight through red lights and speed violations. Additional mobile speed camera/radar vehicles may be provided upon request of the City and as agreed with the Contractor. Upon agreement to add additional vehicles, the City and the Contractor will establish a mutually agreed upon timeline in which these additional vehicles will be fully operational. For each additional van, the City will only be charged the fee authorized in Section 12.5(b). Wherever used in this Contract, Contract Award means the date the City Council approves this Contract.

- b. Each mobile speed camera/radar vehicle must be a new (2007 or newer model year) Sport Utility Vehicle, Van, or Mini Van, or other suitable vehicle as approved by the Contract Administrator. Vehicles must be able to negotiate a variety of roadway conditions to permit deployment in the prescribed manner.
- c. Vehicles must have the following minimum equipment:
  - 1. Current AZ registration and emissions stickers, if required.
  - 2. Solid white exterior
  - 3. Operating cellular telephone
  - 4. Legally required advance location signage.
- d. Each vehicle will be marked with Scottsdale Police and photo enforcement decals. The City will be responsible for purchasing and applying markings consistent with City standards. In the event that the contract terminates, the Contractor must allow the City an opportunity, no less than 2 weeks after the termination of the contract, to remove all City property. Markings must comply with specifications relating to mobile photo enforcement vehicles, as required in A.R.S. § 28-654, as presently worded or as amended during the term of the Contract.

### **3.3 OPERATION OF MOBILE SPEED CAMERAS/CONTRACTOR STAFFING**

- a. The Contractor must operate each mobile speed camera/radar vehicle. The Contract Administrator will have final and sole authority to determine which locations will receive photo enforcement and approve all deployment locations 7 days before actual deployment. Deployment will mean the vehicle is at a specified deployment site, is operational and capable of registering violation images. Each mobile speed camera/radar vehicle system will be deployed a minimum of 240 hours each calendar month as averaged over a 3 month period.
- b. The City may waive the 240-hour minimum deployment period if an unforeseen circumstance prevents a vehicle from being operated.
- c. The Contract Administrator, in cooperation with Traffic Engineering and Community and Neighborhood Resources (CNR), will select the specific locations to be monitored based on criteria related to high collision locations, school zones, and citizen complaints.

- d. The mobile speed camera/radar vehicles will be available for deployment 24 hours per day, 365 days per year. The Contract Administrator will determine the exact location(s) and deployment hours.
- e. The Contractor must be responsible for all repairs, maintenance, registration and licensing, insurance, and fueling required for operating each vehicle. The Contractor is responsible for all installation/start-up costs for each van within its pricing as provided in Section 12.5(b).

#### **4.0 RED LIGHT SPEED ON GREEN AND FIXED SPEED CAMERA SYSTEMS**

##### **4.1 GENERAL INSTALLATION REQUIREMENTS**

These provisions are applicable to both red light speed on green, fixed speed (mid-block) and left turn on red camera systems:

- a. The Contractor will be responsible for complete installation of each fixed speed camera system and red light speed on green camera system except if it is connected to the City's traffic signal systems. All installations will be in accordance with all current professional standards as required by the Scottsdale Traffic Engineering Division, the Arizona Department of Transportation, and the Manual on Uniform Traffic Control Devices (MUTCO).
- b. The Contractor must work in conjunction with the City of Scottsdale Traffic Engineering Division and the Traffic Signals Supervisor, in all matters related to City traffic signal connections. The Contractor must ensure that a traffic barricade plan is submitted to the City for approval for any work being performed in the roadway by either the Contractor or its subcontractor. The Contractor must obtain all required work permits and comply with all requirements of the permit.
- c. All installation processes must conform to local, state, and federal requirements and guidelines, and be approved by the City of Scottsdale Traffic Engineering Division. Installation of loops must be in compliance with ADOT and CALTRANS specifications.
- d. In accordance with the NEMA standards, the Contractor must use isolation relays or equivalent to protect traffic signal equipment from noise, transient voltage, and any related remote interconnect or interference problems.
- e. The Contractor's camera system must monitor the status of the traffic signal through field terminals (120 VAC).
- f. In each installation area, the Contractor must coordinate with the local utility company to provide the most convenient and economical source of power. The City agrees to assume any additional expense for power should a connection be made directly to an existing power source with a traffic signal cabinet or street light service. The Contractor must provide a separate circuit breaker if this power originates from the same disconnect as the traffic signal, and it must be well marked.
- g. The Contractor is responsible for in-ground loop placement, maintenance, and timing sequences for camera activation at the direction of the Contract Administrator, after



consultation with the Contractor and Traffic Engineering. During installation, traffic disruption must be kept to a minimum. The Contractor must replace any damaged traffic signal equipment including loops, controller equipment, etc. at the Contractor's expense.

- h. The Contractor is responsible for locating loops and other underground facilities through "Blue Staking" or any equivalent service.
- i. The Contractor's equipment may not be attached to City owned traffic signal or street lighting poles.
- j. The Contractor must include installation/start-up costs for each site within its pricing range. The pricing ranges are as stated in Section 12.5.
- k. All new sites for both red light speed on green and mid-block fixed speed camera systems will be in operation no later than midnight, June 30, 2007. The new sites are listed in Section 12.6. This requirement is conditioned on the proper integration of computer systems between the Contractor and the Scottsdale City Court and the timely installation of electrical power and telecommunications at the new mid-block fixed speed sites. Because of the short time allowed for implementation, the full scope of desired software functionality and integration may not be available until after July 1, 2007. It is agreed that Court and Contractor integration may be limited to processing citations for left, right, and straight through red lights and speed violations.

#### **4.2 RED LIGHT SPEED ON GREEN CAMERA SYSTEMS.**

- a. Each Red Light Speed on Green Camera System is defined as inclusive of all equipment and personnel required to complete the operation of a red light speed on green enforcement camera system. The Contractor must install all hardware including the traffic loops or sensor arrays. Required hardware must include, at a minimum, all computer interfaces, software, cameras, flash strobes, sensor arrays or loops, wiring, and any necessary appurtenances to provide a fully functional system.
- b. The Contractor must provide red light speed on green camera systems for at least one approach to 7 intersections. The Contractor must provide the appropriate number of camera sets to those 7 systems. Although the City has existing sites for these systems, the City has elected to relocate some of these systems to other sites it believes are appropriate. The list of new sites and existing sites is provided in Section 12.6. A camera system must be capable of monitoring all through traffic in one direction at one intersection and must be capable of doing the following:
  - 1. For record keeping and court purposes, each camera system must have sufficient computer and other associated equipment necessary to record, document, and track a vehicle and driver entering an intersection against a red traffic signal in violation of A.R.S. § 28-645 or who is exceeding the posted speed limit in violation of A.R.S. § 28-701 (A), or both.
  - 2. Each camera system must also be capable of detecting and generating color images of both the front and rear of a vehicle speeding through an intersection on a green or yellow signal light in violation of A.R.S. § 28-701(A) (Speed

Greater than Reasonable and Prudent) and a vehicle and driver entering an intersection against a red traffic light in violation of A.R.S. § 28-645.

It is possible that some of the intersections and approaches will be the same as the current installations. For current intersections, the Contractor may be able to utilize the existing poles, foundations and in-pavement sensor arrays. The City will provide As-built drawings of all the current installations to the Contractor, if requested.

- c. Red Light System Options: If the City elects to expand the program, the Contractor will provide additional red light/speed on green camera systems during the life of the Contract (See Section 12.5 for Fees).
- d. The City will have sole and final authority to designate intersections and the approaches to be monitored.
- e. The red light camera systems must be monitored, calibrated every day, and serviced by Contractor technicians as directed by the Contract Administrator. The technicians must be prepared to testify in Court at the expense of the Contractor.
- f. Each red light camera system must have the capability of generating color images of both the front and rear of a vehicle that is believed to have entered an intersection on a red traffic signal while traveling straight through the intersection and exceeding the posted speed limit through the intersection, or both.
- g. Each of the camera systems placed at the designated intersections must be operated on a 24-hour basis, barring downtime for repairs and maintenance.
- h. Malfunctions in the Red Light Camera system must not interfere with the continued operation of any traffic control system.
- i. No less than 6 times each year, the Contractor will perform independent vehicle mounted speed tests through each lane of each red light speed on green camera location. The independently calibrated and certified "fifth wheel" speedometer attached to the vehicle must confirm the accuracy of the system in accordance with the Contractor's system specifications as stated in Section 5.7 of the Contractor's Proposal.

#### **4.3 INSTALLATION OF RED LIGHT SPEED ON GREEN CAMERA SYSTEMS**

- a. The City's traffic signal equipment meets NEMA (National Electrical Manufacturers' Association) Traffic Control Systems Standards. The City uses Model 170 Controllers. The Contractor's equipment must meet or exceed present and future NEMA Traffic Control Systems Standards and be compatible with:
  - 1. Model 170 Controller Standards as published in the CALTRANS "Traffic Signal Control Equipment Specifications" manual (latest revision).
  - 2. City of Scottsdale "Design Standards and Policies Manual," Section 3.2, as applicable to interconnection compatibility with signal equipment.

- b. The Contractor's system must provide a convenient means of disconnecting the power for the photo enforcement system from the traffic signal system. The Contract Administrator retains the right to disconnect the Contractor's system from the traffic signal system when, in the opinion of the City's Traffic Engineering Division, it is in the City's best interest to do so for purposes of maintenance, repair, troubleshooting, or other reasons related to the proper operation of the traffic signal system.

#### **4.4 FIXED SPEED (NON-INTERSECTION) CAMERA SYSTEMS**

- a. Each fixed-speed (non-intersection) camera system must be inclusive of all equipment and personnel required to complete the operation of a fixed speed enforcement camera system. The Contractor must install all hardware including the traffic loops or sensor arrays. Required hardware must include, at a minimum, all computer interfaces, software, cameras, flash strobes, sensor arrays or loops, wiring, and any necessary appurtenances to provide a fully functional system.
- b. The Contractor must provide fixed speed camera systems for at least 2 locations. The camera systems must be capable of monitoring all through traffic in both directions. For recording and court purposes, each camera system must have sufficient computer and any other associated equipment necessary to record, document, and track a vehicle and driver speeding in violation of ARS 28-701(A) (Speed Greater than Reasonable and Prudent).
- c. The City will have sole and final authority to designate the locations to be monitored.
- d. The fixed-speed camera systems must be monitored, calibrated every day and serviced by the Contractor technicians as directed by the Contract Administrator. The technicians must be prepared to testify in Court at the expense of the Contractor.
- e. Each fixed-speed camera system must have the capability of generating color images of both the front and rear of a vehicle that is speeding (ARS § 28-701(A)).
- f. Each fixed-speed camera system must be operated on a 24-hour basis, except downtime for repairs and maintenance.
- g. No less than 6 times per year, the Contractor will perform independent vehicle mounted speed tests through each lane of each mid-block fixed speed camera location. The independently calibrated and certified "fifth wheel" speedometer attached to the vehicle must confirm the accuracy of the system in accordance with the Contractor's system specifications as stated in Section 5.7 of the Contractor's Proposal.

#### **4.5 DISPOSITION OF RED LIGHT CAMERA AND FIXED SPEED EQUIPMENT (HARDWARE)**

Upon termination of this Contract for whatever reason, the City will take ownership of the following system components:

- All below ground conduit, wiring, detection loops, and piezos.
- All detection system poles.
- All detection system control cabinets.

**The Contractor will be responsible for removal and retains ownership of:**

- All still cameras.
- All video cameras.
- All flash units.
- All computer components connected to the above listed items.

#### **4.6 UPGRADED PHOTO ENFORCEMENT TECHNOLOGY**

The Contractor will implement upgraded technology in all its equipment, including the following:

- Left turn and dual left turn camera enforcement with Multi-Shot™ front camera technology. (If requested by the City.)
- Right-turn enforcement. (If requested by the City)
- Mobile speed cameras with Multi-Shot™ rear camera capability.
- Fixed site speed cameras with Multi-Shot™ technology (for intersection, mid-block and freeway use), and
- Patented Point to Point Freeway Speed Enforcement System. (If requested by the City)

#### **5.0 COMPUTER SYSTEM DUTIES AND RESPONSIBILITIES**

The Contractor must do all of the following:

- a. Any software developed by the Contractor must be compatible with the Court software/database. The City will be responsible for the costs of purchase and installation of any necessary City or Court software and hardware.
- b. Be able to transmit and accept files by File Transfer Protocol (FTP) and maintain an FTP site for accepting these transfers. The file(s) will be transmitted to the FTP site after 12:00 am and prior to 5:00 am daily (7 days a week). The FTP site must be operational 24 hours a day, 7 days a week. The FTP process may be changing to an IBM MQ messaging process and the Contractor must adopt this method when adopted by the Court.
- c. Be able to accept a daily (7 days a week) electronic transfer from the Court in a format compatible with the Court's database. This transfer contains:
  - Case numbers for imported citations
  - Court dates
  - Disposition updates
  - Under Advisement notice
  - Personal service notifications(This is not an all-encompassing list and will be updated as necessary.)
- d. Provide a daily (7 days a week) electronic transfer to the Court in a format compatible with the Court's database. This transfer contains:
  - New citations for filing
  - Reissued citations from nomination/Notice of Violations (NOV) or previously issued citations, or both.

- Dismissal requests (MUST be accompanied by reissue if dismissal resulted from a reissuance)
  - Address updates
  - Hearing requests for non disqualified drivers
- (This is not an all-encompassing list and will be updated as necessary.)
- e. Process all of the daily transfer(s) from the Court. The Contractor must then transfer to the Court all updates to ensure that the transfer(s) are applied to Contractor's records first.
  - f. The Contractor must provide the Court with an electronic image of all citations filed in TIF format to assure it is available but secure for the web browser. The image is to be transferred the same day as the citation.

## **5.1 COMPUTER SYSTEM ENVIRONMENT**

The City's current Court system is client-server based and the Contractor's computer system must be compatible with the City's system. The application uses Windows Server 2003 for file and print services and an HP server running HP/UX version 11.1 as the database server. The HP server is currently running Informix version 9.4 of the database and will be upgraded to ten. All data generated by the Photo Enforcement System must be integrated into the Informix database.

## **5.2 TURNKEY OPERATION**

- a. A "turnkey" operation means the Contractor must provide all the necessary equipment associated with the enforcement systems and all staff necessary to install, operate, and maintain the enforcement system and provide all necessary services, at no additional cost to the City beyond stipulated monthly charges and "paid" citation fees as provided in Section 12.5, including but not limited to:
  - 1. Photographing vehicles allegedly not stopping for a red traffic signal or speeding;
  - 2. Obtaining vehicle owner information from vehicle registration, including out of state registrations;
  - 3. Reviewing the photographs to insure the license plate and driver are clearly visible, including gender matching;
  - 4. Matching the vehicle make, model and type described in the registration information;
  - 5. Performing quality control in the form of a second opinion as to the validity of the license plate and operator identification;
  - 6. Generating a citation and photograph to be mailed to the violator;
  - 7. Transferring electronic files of citation information to the City of Scottsdale Court and back;
  - 8. Providing court testimony of those citations that are contested;

9. Providing a toll-free 1-800 phone number, for access to the Contract Administrator or other Photo Enforcement Unit personnel, 24 hours a day, 7 days a week. This provision is applicable to City and Contractor personnel only.
  10. For all City computer interfaces with the Contractor, the City will provide any necessary hardware and the Contractor will provide to the Police and the Contract Administrator, any necessary and properly licensed software and required updates.
- b. Turnkey shall not include the following operations:
1. After the Contractor has performed its quality control examination in the form of a second opinion concerning the validity of the license plate and operator identification, and before a citation is generated and the photograph mailed to the violator, this information must be forwarded to the Contract Administrator for final verification and authorization before the issuance of a citation and photograph mailing to the violator.
  2. If the violator fails to respond to the mailing of the original citation within 30 days, a copy of the citation and the violator's photograph will be sent to the City, as directed by the Contract Administrator. A copy of the citation and a copy of the violator's photograph will be personally served on the violator by the City in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service.
- c. The Contractor is responsible for repairs and maintenance of all equipment and the purchase of all supplies necessary for its complete operation. The Contractor must make repairs within 2 days of any equipment malfunction. Unless waived by the Contract Administrator, repairs that cannot be made within 2 days of notification will be a violation and subject to a fee deduction penalty. The penalty will be a minimum of \$100.00 per day per continuing violation.
- d. The Contractor must be capable of servicing all equipment, fixed or mobile, from a location within the Scottsdale/Phoenix Metropolitan Area.
- e. The Contractor must provide all necessary staffing to operate the photo enforcement system and to address citizen concerns and processing of citations in a timely, professional, and effective manner. Staffing also includes responding to phone inquiries from citizens, personal contact, requests to review photographs, and providing hearing dates and times at the direction of the Scottsdale City Court. The Contractor must provide all requested and associated equipment, materials, and personnel required to operate a citation processing system in cooperation with the Scottsdale City Court and the Scottsdale Police Department.
- f. In this Contract, "Days" will be understood to mean Court Days, which are Monday through Friday only, except for legal holidays. Where the word "hours" is used, it will be understood to mean the number of hours from the triggering event. Any time period of 10 days or less will not include Saturdays or Sundays. Any time period over 10 days will include Saturdays and Sundays.

- g. The Contractor represents and gives its good faith assurances to the City that the Contractor can install and operate a fully functional photo enforcement system as provided for within the terms of this Contract for the fees authorized by this Contract. No additional fees or costs will be necessary if the City does not request any additional services or photo enforcement sites.

## **6.0 CONTRACTOR STAFFING**

- a. The Contractor will provide staffing for all speed camera enforcement including screening, hiring, scheduling, and assigning, as directed by the Contract Administrator. The Contractor will staff and pay any costs associated with preparing for and making court appearances.
- b. The Contractor is required to work effectively with, and quickly address, issues identified by the Contract Administrator. The Contractor will assist in establishing a clear written protocol for handling citizen complaints, to be approved by the Contract Administrator.
- c. The Contractor must assure its support personnel will provide court testimony, address citizen's concerns and process citations in a timely, professional, and effective manner. The support staff will be responsible for responding to phone inquiries from citizens, personal contact, requests to review photographs, and provide hearing dates and times at the direction of the Scottsdale City Court. The number of staff shall be adequate to minimize citizen "wait" time to no more than 20 minutes. The Contractor must have the capability of communicating with non-English speaking customers.
- d. The Contractor's staffing of Mobile Speed Camera Vehicles will reflect upon the City and the Scottsdale Police Department. Personnel assigned to this task by the Contractor must be sensitive to the fact that they will be representing the City of Scottsdale and must be customer oriented and professional. Personnel will be required to:
  - 1. Be courteous at all times.
  - 2. Maintain a professional appearance and demeanor.
  - 3. Conform to grooming standards of the Scottsdale Police Department.
  - 4. Dress appropriately for Court appearances (males required to wear a tie).
  - 5. Refrain from use of tobacco products while in the vehicle housing a speed camera or in the public view.
  - 6. Adhere to a code of conduct to be agreed upon by the Contractor and the Contract Administrator.
  - 7. Possess good interpersonal and communication skills.
  - 8. Present testimony in Scottsdale City Court or appropriate appellate court in a professional and effective manner.
  - 9. Wear appropriate attire while in the Photo Enforcement vehicles. Warm weather wear will consist of polo style shirts with a uniform pant or shorts with stitched

identifying emblems. Cold weather wear will consist of similar uniform shirt and pant with stitched jacket.

- e. In addition, personnel will be required to pass a background check or pass a polygraph test or both, together with the Substance Abuse screenings as set forth in Section 6.1.
- f. The Contractor's employees who regularly come into direct contact with the public must be clearly identifiable by individual uniforms with name badges, nametags or identification cards.
- g. The Contractor must assure that its employees serve the public in a courteous, helpful and impartial manner. All employees of the Contractor in both field and office must refrain from belligerent behavior and profanity. Correction of any of this behavior and language is the responsibility of the Contractor.
- h. If a notice is received of allegations that the Contractor's employee(s) was discourteous, belligerent, profane, or in any way intimidating, either physically or verbally, the Contractor must, within the time specified, submit to the Contract Administrator a written report outlining the complete details of the incident. This report must include the following:
  - 1. The nature of the incident, time, date and location, together with the name, address, and telephone number of the person alleging the violation.
  - 2. The report must also include the name and title of the employee and the resolution or disciplinary action, if any, that was taken.
  - 3. The action taken to re-contact the complaining party.

The Contractor must keep these reports on file for the duration of the Contract and make them available upon request by the Contract Administrator. The Contractor must notify the Contract Administrator within 24 hours of any incident reflecting any unacceptable conduct. Failure to timely notify the Contract Administrator of unacceptable conduct, as described above, may result in a fee deduction penalty of a minimum of \$100.00.

- i. Failure of the Contractor to submit a timely written report, maintain a file of these reports for the duration of the contract, or failure to make these reports available upon request of the Contract Administrator will result in a fee deduction penalty of a minimum of \$500.00.
- j. All Contractor personnel performing work under this Agreement must be subject to the continuing approval of the City. If any Contractor personnel are not approved by the City and the Contractor has received notice of this disapproval from the Contract Administrator, the Contractor must replace the personnel with substitute, qualified personnel within a reasonable amount of time.
- k. The Contractor must provide a phone number with a user-friendly telephone information system with touch-tone prompting.



## **6.1 SUBSTANCE ABUSE SCREENING AND BACKGROUND CHECK**

- a. To promote its policies for health and safety in the work place the City of Scottsdale requires that Contractors performing ongoing work for the City must adhere to established procedures, relating to criminal background investigations, substance abuse screening, and safety training.
- b. The Contractor must maintain a sufficient "buffer" of background-checked employees to provide continuous, unbroken service.
- c. Any and all employees of the Contractor's company, including all owners and officers who have direct participation with the operation of the Photo Enforcement Program under this Contract, are required to adhere to the background investigation process and substance abuse screening.
- d. The Contractor's employees, before engaging in work for the City, must submit to and successfully complete substance abuse screening for illegal drugs, controlled substances and alcohol. Screening and examination must be performed in accordance with the City's human resources policies and guidelines regarding pre-employment drug screening. The substance abuse screening will be at the sole expense of the Contractor.
- e. The City will receive the results of drug screening and background information, evaluate it and advise the Contractor of whether or not specific employees are qualified to engage in work under this Contract before the employees start work. An employee, who is qualified, will be allowed to work after the City confirms that the employee has successfully completed a local background investigation.
- f. The Contractor must remove any employee after being informed by the City that the background check has disclosed information which disqualifies a person from work under this Contract. Whether the information is disqualifying is in the sole discretion of the City. The City will not provide the Contractor or employee with the disqualifying information that relates to criminal history.
- g. The Contractor's employees engaged in work under this Contract will be required to submit to re-occurrence of substance abuse screening only if they have violated the substance abuse policy as stated in Scottsdale Administrative Regulation 324. Costs for re-occurrence substance abuse screening will be at the Contractor's sole expense.
- h. The Contractor's employees must adhere to the City's substance abuse policy and all City policies, regulations and guidelines relating to the prohibition of the use of alcohol or drugs, and are subject to reasonable suspicion drug screening as stated in the City substance abuse policy. The Contractor will pay for expenses incurred for substance abuse screening of an employee under the reasonable suspicion drug screening procedure.

## **6.2 PROCEDURE FOR PROCESSING BACKGROUND CHECKS**

- a. The Contract Administrator will advise the Contractor concerning proper procedures for conducting background investigations and will provide the Contractor with background check information packets containing necessary information and forms.

- b. The Contractor will provide background information materials to its employees and officers. The Contractor is responsible for ensuring that the forms are completed properly and all procedures are followed. The Contractor will submit to the Contract Administrator all pertinent information and forms for review.
- c. All pre-employment tests and checks must be in-progress prior to a Contractor's employee being permitted to work under this Contract. Additionally, the following conditions must be met before the Contractor's employee may work under this Contract:
  - 1. Substance abuse test has been completed and reported with negative results; and
  - 2. Results of state investigation of fingerprints has been returned without adverse information that would disqualify the contract employee;
- d. The Contractor will not knowingly permit an employee to carry out work under this Contract until the individual has gone through the required background investigation process and has been approved by the City.
- e. The Contractor will be in default under this Contract if any employee working has not gone through the background investigation process.

### **6.3 BACKGROUND CHECK COST STRUCTURE**

- 1. The present estimated costs for background investigation procedures per individual are as follows:

Contractor is required to pay for the following:

Substance abuse screening	\$22.50
Fingerprinting:	24.00
Driving record:	<u>3.00</u>

Reasonable Suspicion Substance Abuse Drug Screening	<u>22.50</u>
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- 2. The Contractor must pay for services as shown above; substance abuse screening; fingerprinting; driving record; reasonable suspicion drug screening. The Contractor will reimburse the City no later than 30 days after being invoiced.

### **7.0 POLICE AUTHORIZATION PROCESSES**

The City will perform the Police Authorization Phase of the Citation process in-house.

#### **7.1 IMAGES/PHOTOGRAPHS**

- a. The Contractor must ensure there are clear unobstructed digital images for each filed citation. Enlarging images for court purposes may be required. The Contractor must mail a violation photograph or a high quality copy of the photograph to the violator along with the citation. The Contractor must pay for the printing and mailing costs for

the citations and photographs or copies of photographs and the Contractor must be able to provide a duplicate copy of any generated violation image upon request of the court or a citizen, at no additional cost to the City. Digital still photos must be in resolution of 6 mega pixels or greater.

- b. All digital images produced by the Contractor must be used only for prosecution purposes. Any other purpose must be authorized by the Contract Administrator.
- c. All digital images which result in the filing of a citation must clearly show the following:
  - 1. A motor vehicle committing a suspected violation;
  - 2. An unobstructed image of the driver's face;
  - 3. An unobstructed image of the rear license plate of the vehicle.
- d. All digital images must include a data line with the following information imprinted upon the image but not obstructing the violation images:
  - 1. Day, month, year of the suspected violation;
  - 2. Time of the suspected violation (hh.mm.ss);
  - 3. Speed of the vehicle photographed;
  - 4. Traffic signal phase (in the event of an intersection camera unit);
  - 5. Posted speed limit;
  - 6. Direction of the vehicle photographed;
  - 7. Operator/Technician identification code;
  - 8. Location code;
  - 9. Frame sequence number;
  - 10. A geographic location where the suspected violation occurred.
- e. The Contractor must provide a method for examination, retrieval, and reproduction of digital images for any photographed vehicle.
- f. The Contractor must provide to the Contract Administrator photographs of all violator vehicles bearing fictitious plates, altered plates, suspended plates, or those vehicles or license plates reported stolen.
- g. The Contractor must perform selected computer queries/reports, at no additional cost to the city, when required to ascertain information related to any work completed under this Contract as requested by the Contract Administrator.

- h. The Contractor must provide digital still images and digital video clips from fixed systems, and digital still images from mobile detection systems for viewing by citizens who received the citations. Citizens must provide proper identification before they will be allowed to view a photograph. No one will be allowed to view a violation photograph of another person except adults viewing the violation photograph received by their minor children. Photos must be readily available for review by citizens for no less than 6 months after the date of violation or until a successful disposition through a secure Internet website, created and maintained by the Contractor.
- i. The Contractor will provide an audit trail of all unusable and unattainable images with documentation regarding why the photograph was unusable and why a citation was not generated.
- j. No citations for speeding violations will be issued unless the speeding vehicle is traveling at least 11 miles per hour over the posted speed limit. Exceptions may be made for school zones with the permission of the Contract Administrator. In all instances, the Contract Administrator will determine the appropriate speed enforcement margin for a particular location.
- k. The Contractor will be responsible for electronically providing digital photographs, digital video clips and the Police Authorization screen to the Contract Administrator for police authorization review within an average of 3 days, and will use its best efforts to provide the evidence within 48 hours of the violation, but in any event, the Contractor will provide the citation to the Court within the time required in Section 7.2(c). Any violation event for which no driver or registered owner is found must be forwarded within 60 days if subsequently located.
- l. If possible, the Police Authorization review screen will have buttons for three options: Reject, Issue Citation, and Issue Notice of Violation.
- m. Within 3 days of approval by the police department staff the Contractor will be responsible for mailing an approved citation or Notice of Violation with an enclosed postage-paid return envelope.
- n. The Contractor will submit to police department staff through the Police Authorization screen, digital photographs and video clips of any emergency vehicle that does not appear to be operating in an emergency mode and is traveling in excess of the threshold speed limit or failing to stop for a red light.

## **7.2 QUALITY CONTROL**

- a. No citations will be generated unless the violation images establish the following elements:
  - 1. Driver's face is clearly visible and discernible to permit clear identification.
  - 2. Gender of the operator is consistent with the registered owner information.
  - 3. Registration information matches the make and model of the vehicle in the photograph.

4. A second Contractor employee has reviewed all violation images to ensure no misread registration plates will result in faulty citations.
- b. Disregard of any of the quality control measures specified above may result in the City deducting \$100 in Contractor fees for each verified instance of non-compliance.
- c. A.R.S. §28-1593(b) requires that the citations must be filed with the Court within 10 days following the date of issuance of the citations. In the event a Notice of Violation is issued or a citation is reissued showing a properly identified actual driver, the citations must be mailed within 60 days of the date of the violation. The Contractor's failure to comply with this policy is considered a quality control violation and may result in a \$100.00 reduction in the monthly fee for each instance.
- d. All new personnel considered for field operations must first be approved by the Contract Administrator. If the Contract Administrator has not responded within 10 days after the Contractor's request for approval, the Contractor will be permitted to employ the new personnel, unless the new employee has yet to complete the background checks and the Substance Abuse Test.
- e. The Contract Administrator reserves the right to have anyone removed from any visible role in the Focus on Safety Program for a violation of standards of conduct, grooming, quality control, or deployment parameters if the violation is not cured within 10 days after notice to the Contractor. The Contract Administrator has the sole authority to determine if a violation warrants removing the employee from a visible role in the Focus on Safety program.
- f. Violation of written quality control measures, standards of conduct, grooming or deployment parameters may result in a fee deduction of \$100.00 for each incident. The Contract Administrator has the sole authority to determine whether a violation has occurred.
- g. Deployment of all photo enforcement systems is at the direction of the Contract Administrator. All deployments require written approval of the Contract Administrator. The Contractor must not deploy on a roadway any less than 1,000 feet beyond a drop in the speed limit without specific written permission from the Contract Administrator. Deployments must not block sidewalks and must leave not less than 4 feet of sidewalk or pathway width to permit passing of pedestrians, bicycles, wheelchairs, and strollers.
- h. Violation of any deployment schedule or location parameter as specified by the Contract Administrator may result in a fee deduction of \$500.00 for each incident. The Contract Administrator has sole authority to determine whether a violation has occurred.
- i. The Contract Administrator may add reasonable quality control measures at any time, as mutually agreed, provided it is within the provisions of the RFP or the Contractor's Proposal, or both.
- j. Requests for documents must be timely and provided as required by the Contract Administrator.

- k. The Contractor must ensure employee compliance with all traffic laws.

### **7.3 VEHICLE REGISTRATIONS AND DRIVER'S LICENSE INFORMATION**

Arizona vehicle registration information is required to issue citations and Notices of Violation. The City will make this information available to the Contractor at no cost. The Contractor must obtain out-of-state registration and Driver's License information, at Contractor's expense, within the times required for issuing citations, and to include registration and driver's license expiration dates and status (e.g., Expired, Cancelled, Suspended, Revoked, ID Card Only) when this information is included in the reply from the state of issuance.

### **7.4 CITATION (Citation) FORMAT AND TRACKING**

- a. All citations must be in a format approved by the Scottsdale City Court and the Arizona Supreme Court.
  - 1. Information mailed to defendants must include:
    - A. Citation
    - B. Photograph
    - C. Options for defendant
    - D. General photo enforcement information
  - 2. Information mailed to defendants may need to be updated on occasion due to changes in court processes and or legislation. The Contractor must be able to make changes in a timely manner and absorb costs of changes and postage.
- b. All citations must bear a unique citation number as directed by the Scottsdale City Court for tracking purposes (numbers must not duplicate each other or existing City numbers). The current requirements are that citation numbers consist of 8 digits. Each citation must contain the digital signature of an authorized City official.
- c. The digital format of the citation available during the Police Authorization stage must include a drop-down menu to allow adding to the speed and red-light violation additional observable traffic infractions, to include A.R.S. §28-2153, Expired Vehicle License; A.R.S. §28-2354, License Plate, Attachment; A.R.S. §28-2533, Failure to Register; A.R.S. § 28-751, Improper Left Turn on Red; and such other infractions as may be required by the Contract Administrator.
- d. The Contractor must have the capability of electronically transferring citations and citation data to the Scottsdale City Court's Case Management System in a manner directed by the City of Scottsdale Information Systems Department and the Scottsdale City Court.

### **7.5 SERVICE OF CITATION**

- a. The Contractor must bear all costs for the mailing of citations, Notices of Violations, photographs/copies of photographs, printing, and other associated costs and expenses required to manage a professional processing center.

- b. Citations (initial or as a result of nominations) must be mailed and postmarked within 3 days after approval through the Police Authorization process. All processing must comply with court rules and state and city laws and regulations.
- c. The citation must be accompanied by specific, clear instructions. If there is no response within 30 days after mailing of the original citation to the violator, a copy of the citation and the violation photograph will be sent to the city, at no additional cost to the City, as directed by the Contract Administrator. A copy of the citation and the violation photograph will be personally served on the violator by the City in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service. Personal service will be in accordance with Arizona Rules of Civil Procedure Rule 4.1 that governs Service of Summons upon Individuals. Personal service must be commenced within 45 days of the violation.

## **7.6 NOTICES OF VIOLATION**

Instead of a citation, Notices of Violation will be issued in the following instances:

- a. To owners of vehicles for violations where the gender of the registered owner does not match that of the photographed driver.
- b. Where the vehicle is registered to a business or corporation.
- c. Where the vehicle photographed does not match the description on the registration.

The Notice of Violation format must include, where applicable, the speed limit, the actual speed or the length of time the signal light was red for red light violations. Any photograph attached to the Notice of Violation will be in color and of the same quality as those attached to citations. All future modifications to Notices of Violation will be made at no expense to the City as required by the Contract Administrator.

## **8.0 RECORD KEEPING**

- a. The Contractor must retain all digital images and digital video clips produced by all detection systems for a period of one year from the date of the violation disposition.
- b. Failure to comply with this condition may result in the City of Scottsdale deducting \$100.00 in Contractor fees for each verified instance of noncompliance.
- c. All images recorded and stored are the property of the City.
- d. The Contractor must maintain appropriate chain of custody of evidence rules that meet the requirements of the City of Scottsdale, the Scottsdale Police Department and the Scottsdale City Attorney's Prosecution Division.
- e. For a period of one year from the date of occurrence, the Contractor must maintain and provide all voided, not actionable, and unusable digital images and digital video, at Contractor's expense. The images and video may be stored off-line, provided it is readily retrievable.

- f. All digital images will be subject to inspection by the Contract Administrator or his designee, with copies provided when requested.
- g. The Contractor must maintain sufficient records to ensure compliance with Arizona Revised Statutes § 28-1560 and Supreme Court Administration rules.

## **9.0 REPORTING**

- a. The Contractor must submit to the City, through the Contract Administrator, a monthly report of photo enforcement results.
- b. Monthly reports must be provided within 15 days after the end of the previous month. The report must include the following information:
  - 1. Total number of violations photographed;
  - 2. Total number of actionable violation images;
  - 3. Total number of non-actionable violation images by major category (i.e., face obstruction, glare, gender match, etc.);
  - 4. Total number of citations filed with the Scottsdale City Court;
  - 5. Deployment statistics by location;
  - 6. Deployment statistics by operator;
  - 7. Total number of violators that have responded to the court after the mailed citation;
  - 8. The total number of red light digital images taken and the number of those images that have resulted in citations;
  - 9. The total number of speed digital images taken by the red light/speed camera systems and the number of those images that result in citations;
  - 10. The total number of digital images taken by the speed enforcement vehicle system and the total number of those images that result in citations.
  - 11. The total number of left turn on red images taken and the number of those images that have resulted in citations.
- c. The Contractor must provide quarterly and yearly summary data pertaining to monthly reporting mandates and year-to-date statistics. The Contractor must prepare an initial program evaluation report 6 months after the beginning of the program. This will include an analysis of the initial program data and an explanation of the program improvements that have been planned and implemented. The Contractor must complete and submit a comprehensive program evaluation by the end of the first year of the contract and each subsequent contract year.



- d. The City will review all reports and audits to verify the Contractor's performance to make recommendations as to program modifications and to evaluate overall program effectiveness.
- e. The Contractor must provide any other reports and documents mutually agreed upon and useful to further the mission of reducing collisions, at no additional cost to the City.

## **10.0 SUPPORT ISSUES**

### **10.1 TRAINING**

- a. The Contractor must provide training to City personnel as reasonably necessary to understand the operation of the red light speed on green camera system, fixed speed camera system, left turn on red camera system, and mobile vehicle camera/radar systems. Training must be provided to persons designated by the Contract Administrator.
- b. The Contractor must provide reasonable and necessary training in the operation of the Red Light Speed on Green Camera System(s) for the City's traffic signal personnel. This Training must provide the City's traffic signal personnel with a basic understanding of how the camera system(s) operates and a detailed understanding of how the system(s) interfaces with the City's traffic signal equipment. The anticipated number of City employees requiring training is 15-20.
- c. Training is to be conducted within the City of Scottsdale at a site that is convenient for City personnel.
- d. Class sizes will be limited so as to provide a quality-training atmosphere. It is recommended that class size be limited to a maximum of 15 trainees for each instructor.

### **10.2 COURT TESTIMONY**

- a. The Contractor must provide witnesses as necessary to testify as to the accuracy, calibration, maintenance, repair records, technical operation and effectiveness of all the camera/radar enforcement systems.
- b. The Contractor must designate employees, as required, to testify as to the conditions observed at the time of each violation and any observations related to the specific violator's vehicle. Employees must prepare and complete a log for each tour of duty with pertinent observations noted as required.
- c. The City agrees to make reasonable efforts to prosecute each citation filed.
- d. The City will provide appropriate court facilities.
- e. The Contractor's employee must testify in all required court proceedings at no additional cost to the City, whether subpoenaed by the plaintiff or defendant, including criminal or civil violations which were not processed as speed or red light violations through the Contractor's citation-generation process, but for which photo

enforcement digital images may be required as evidence to support charges filed by a prosecutor or a law enforcement officer.

- f. The Contractor must notify all operators and technicians of subpoenas and court dates as required for successful prosecution and insure their timely appearance.
- g. Failure to appear for court upon receipt of a subpoena may result in the City deducting \$100.00 in Contractor fees for each verified instance of noncompliance.

### **10.3 COMMUNITY AWARENESS AND COMMITTEE PARTICIPATION**

- a. The Contractor will make available a staffed mobile camera enforcement van for public displays, when directed by the Contract Administrator.
- b. The Contractor will be required to participate in a City committee composed of members of the City of Scottsdale Police Department, City Court, Prosecutor's Office, Traffic Engineering Department, Office of Community and Public Affairs and members of the public. The purpose of this committee will be to keep all pertinent City departments updated on communication efforts about the Focus on Safety Program. The committee will also help identify areas for improvement, reach solutions to current and future problems, identify and secure program supporters, and ensure a coordinated effort in disseminating the Focus on Safety message. The Contractor will regularly attend scheduled monthly committee meetings at a location within the City of Scottsdale.

### **10.4 ANTICIPATED TIMELINE**

The Contractor will complete the installation of all equipment and be fully operational on or before the periods stated below. It is intended that the Contractor will use the transitional timeline as described in Section 5.3.1 of its Proposal, but as modified in this Contract.

#### **MILESTONES**

10 days after award by City Council	Acknowledge Award of Contract and provide Certificate of Insurance.
At 12:01 a.m. on July 1, 2007	All 4 mobile photo enforcement vehicle systems are fully operational and all computer technological issues associated with the Contractor and the Scottsdale City Court are resolved and the citation process is operational. Because of the short time allowed for implementation, the full scope of desired software functionality and integration may not be available until after July 1, 2007. It is agreed that Court and Contractor integration may be limited to processing citations for left, right and straight-through red light and speed violations.
At 12:01 a.m. on July 1, 2007	The 1 new red light speed on green intersection and the 4 new mid-block fixed speed camera systems will be in operation. Because of the short

time allowed for implementation, the full scope of desired software functionality and integration may not be available until after July 1, 2007. It is agreed that Court and Contractor integration may be limited to processing citations for left, right and straight-through red light and speed violations. This requirement is conditioned on the timely installation of electrical power and telecommunications at the new mid-block fixed speed sites.

Within 180 days of Award

All initially contracted for Left Turn without Stopping on Red systems are fully operational. These initially contracted for systems will be operational not more than 180 days after the Contract is awarded by the City Council. (See Section 12.6(f) for additional provisions.)

#### **10.5 CITY COOPERATION TO MEET TIMELINES**

It is understood that the City and the Contractor must cooperate in good faith and use their best efforts to have the system in operation by midnight, June 30, 2007. The City agrees to the following:

- a. It will fast-track all required permits to assure that they are issued within one week after the Contractor submits proper plans and specification and pays any necessary fees.
- b. For mid-block locations, the City will work with the applicable utility company to expedite the availability of electricity to the new mid-block fixed speed sites in a timely manner. Additionally, if an existing City-owned power supply point is available, the City will allow temporary connection until a permanent source can be obtained.
- c. For red light camera locations, the City will allow the Contractor to connect to existing power sources using a separate breaker or according to approved design.
- d. On a case-by-case basis, the City will permit the Contractor to run its system wiring through City owned conduit, provided that the Contractor obtains the prior approval of the Contract Administrator for each site and it properly isolates its wiring from the City's traffic signal wiring to assure no interference with the City's traffic systems.
- e. The City Court will establish mutually agreed upon processes and coordination to exchange data with the Contractor, within the limits of the City's system needs.

## 10.6 INSTALLATION ON EXISTING SITES

The City and the Contractor agree to work in good faith, using their best efforts to have all photo enforcement systems operating at 12:01 a.m. on July 1, 2007, except for the 6 existing sites that will be phased in as described below.

- a. To assist in assuring that the Photo Enforcement System operates in a continuous and uninterrupted manner as much as is reasonably possible. The incumbent vendor has agreed to continue to operate the Photo Enforcement System at these 6 existing intersections:

1. S/B at Hayden and Indian School Road
2. S/B at Scottsdale Road and Shea
3. N/B at Scottsdale Road and Cactus
4. N/B at Scottsdale Road and Thomas Road
5. E/B at 90<sup>th</sup> Street and Shea Blvd.
6. N/B at Scottsdale Road and Frank Lloyd Wright Boulevard

- b. The incumbent vendor has agreed to continue to operate the Photo Enforcement System at these 6 intersections from midnight, June 30, 2007, through 12:00 noon on July 27, 2007. The operation of each of these intersection sites will be shut down in the following order:

At 12:00 noon on July 6, 2007, the Contractor will shut down the cameras and computer systems to intersection 1 as described in Section 10.6a.

At 12:00 noon on July 13, 2007, the Contractor will shut down the cameras and computer systems to intersection 2 as described in Section 10.6a.

At 12:00 noon on July 20, 2007, the Contractor will shut down the cameras and computer systems to intersections 3 and 4 as described in Section 10.6a.

At 12:00 noon on July 27, 2007, the Contractor will shut down the cameras and computer systems to intersections 5 and 6 as described in Section 10.6a.

- c. For each of these intersections, the incumbent vendor has agreed it will have all of its still cameras, video cameras, flash units and computer components removed from the applicable intersections by 5:00 p.m. on the date cited. In removing its equipment, the incumbent vendor will carefully disconnect each component and will not remove, cut or damage any wire connections within the poles, control cabinets, pull boxes and below ground conduit. The City will provide a traffic signal technician to monitor each system shut down and disconnection. All detection system poles, below ground conduit, wiring, detection loops, piezos and detection system control cabinets will be left in place undisturbed, except for the removal of the incumbent vendor's equipment. After the incumbent vendor has removed its equipment, the Contractor will take possession of that site and will have its equipment for the site(s) installed and in operation by the following Friday at 12:00 noon. Unless used in place by the Contractor, the Contractor will be responsible for removing all the incumbent vendor poles and abandoned equipment and delivering them to the City as the Contract Administrator directs.

## **11.0 ACCEPTANCE AND DOCUMENTATION**

- a. Each task must be reviewed and approved by the Contract Administrator to determine acceptable completion.
- b. All documents, including but not limited to, data compilations, studies, reports, and images which are prepared in the performance of this Contract will remain the property of the City and must be delivered to the Contract Administrator upon request, termination, or completion of this Contract.

## **12.0 BILLING AND PAYMENT; BILLING RECORDS; PRICE ADJUSTMENT; FEES**

### **12.1 BILLING AND PAYMENT**

- a. The Contractor will work with the City to set up billing and accounting procedures acceptable to the City, and provide itemized billing statements in a form approved by the City.
- b. The Contractor must present duplicate invoices to receive payment for its services. The billing must be at the contracted price, contain, if applicable, adjustments for additions, deletions, or changes in service and a credit for services charged but not performed.
- c. The City will make every effort to process payment for the services performed within 30 calendar days after receipt of the services, and a correct invoice for amounts due, unless a good faith dispute exists concerning the invoice.

**MAIL INVOICES TO:** CITY OF SCOTTSDALE  
Photo Enforcement Contract Administrator  
Attention: Bruce Kalin  
8401 E. Indian School Road  
Scottsdale, AZ 85251

The City is not liable for delays in payment caused by failure of the Contractor to send invoices to the address specified.

### **12.2 BILLING RECORDS**

The Contractor must maintain all books, documents, accounting records and other evidence, applicable to time billed and to costs incurred, and make the materials available for audit by the City, pursuant to Section 14.7 of this Contract.

### **12.3 PAYMENT APPROVAL**

The Contract Administrator must approve all charges before payment.

### **12.4 PRICE ADJUSTMENT**

- a. The Contractor may only request price increases 30 days before the anniversary date of the Contract. Failure to do so may result in the denial of any requested increase.

- b. Price increases will become effective only after approval by the Contract Administrator and the Purchasing Director and will be effective for at least one year from the date of approval.
- c. Approved price increases will be applied to the unit pricing in the Contract as a percentage increase and applies to both the monthly service fee and each paid citation fee.
- d. The increased rate must be based upon the mutual consent of the Contractor and the Contract Administrator; but the Contract Administrator will evaluate the Contractor's performance, services, and records documentation to determine the appropriateness of the requested increase.
- e. The percentage increase in the unit pricing may not exceed the percent of increase in the United States "Consumer Price Index" for *All Urban Consumers* (C.P.I.) West Urban Area for the Percent Change from the Year Ago as published by the U. S. Department of Labor, Bureau of Labor Statistics, (Index Base Period 1982-84 = 100).

## 12.5 FEES

The Contractor will be paid according to the following schedule:

- a. Red Light Speed on Green Camera Systems. The Contractor will receive \$1300.00 per month for each intersection approach. The Contractor will also receive a fee of \$22.50 for each speeding citation and \$25.00 for each red light citation that results in a successful disposition. This pricing becomes effective upon the successful installation and operation of each new digital camera system.
  - 1. New Locations. The City has elected to move one of the existing intersection red light speed on green camera systems to a new intersection. For this new intersection, the Contractor will receive \$2,500 per month. The Contractor will receive a fee of \$22.50 for each speeding citation and \$25.00 for each red light citation that results in a successful disposition. This pricing becomes effective upon the successful installation and operation of each new digital camera system.
  - 2. Additional Systems. At any time during the term of this Contract, the City may request the installation and operation of additional systems at new intersections. For each new intersection service, the Contractor will receive \$2500 per month for each new intersection approach. The Contractor will also receive a fee of \$22.50 for each speeding citation and \$25.00 for each red light citation that results in successful disposition.
- b. Mid-Block Fixed Speed Camera Systems. The City has elected to move the 2 existing mid-block fixed speed camera systems to new sites. There will now be 4 new mid-block fixed speed camera systems at 2 sites as described in Section 12.6(a) and (b). The Contractor will receive \$2,500 per month for each location. The Contractor will also receive a fee of \$22.50 for each speed citation that results in a successful disposition. This pricing becomes effective upon the successful installation and operation of each new mid-block fixed speed camera system.

3. Additional Systems. At any time during the term of this Contract, the City may request the installation and operation of additional systems at mid-block locations. For each new location, the Contractor will receive \$2,500 per month for each new location. The Contractor will also receive a fee of \$22.50 for each speed citation that results in a successful disposition. This pricing becomes effective upon the successful installation and operation of each new mid-block fixed speed camera system.
- c. Mobile Photo Radar Van Systems. The contractor will receive a monthly fee of \$5,500 per month for each of the four speed enforcement vehicles in service. The Contractor will also receive a fee of \$22.50 for each speed citation that reaches a successful disposition beginning with the date each van is operational and accepted by the City.
    1. Additional Mobile Photo Radar Van Systems. At any time during the term of this Agreement, the City may request the use of additional mobile systems. For each new mobile system over 4, the Contractor will receive \$5,500 per month for each new mobile system. The Contractor will also receive a fee of \$22.50 for each citation that reaches a successful disposition beginning with the date each van is operational and accepted by the City.
  - d. Left Turn without Stopping on Red Camera Systems. At any time during the term of this Contract, the Contract Administrator may request that the Contractor begin the installation and operation of Left Turn without Stopping on Red Camera Systems. This new system will be fully operational within 90 days after the request or at any other time as agreed by the Contractor and the Contract Administrator. The Contractor will install a left turn camera at any of the existing 6 red light speed on green camera intersection approaches that have 4 lanes or less, including left turn lanes. The only fee for these intersections will be a fee of \$25.50 for each citation that reaches a successful disposition.
    1. For the addition of any Left Turn/Right Turn without Stopping on Red Camera Systems at any existing intersections that have more than 4 lanes or any additional intersections, the Contractor will receive a monthly fee of \$2500 per intersection. The Contractor will also receive a fee of \$25.50 for each citation that reaches a successful disposition. These fees are in addition to the fees received for the Red Light Speed on Green Camera Systems.
  - e. A successful disposition is defined as a citation reaching any one of the following conditions:
    1. The violator pleads or is found responsible.
    2. The violator attends defensive driving school.
  - f. The City will not pay any additional fees to the Contractor for other charges on citations other than violations of A.R.S. § 28-645, A.R.S. § 28-701 (A), and A.R.S. § 28-751.

## 12.6 CHANGE OF ENFORCEMENT SITES.

The following enforcement sites will be relocated, at Contractor expense, from their existing locations to new sites as described below:

- a. The east and west bound mid-block fixed speed sites on Frank Lloyd Wright Blvd. will be moved to east and west bound sites selected by the City on Shea Blvd. between 120<sup>th</sup> Street and 124<sup>th</sup> Street.
- b. The south bound red light and speed on green site at Pima and Pinnacle Peak Road will be moved to north and south bound fixed speed sites selected by the City on Pima Road between Los Gatos and Thompson Peak Parkway.
- c. The north bound site at Hayden Road and McCormick Road will be moved to cover traffic east bound at the intersection of Scottsdale Road and McDowell Road.

The sites that will remain as presently located are:

S/B at Hayden and Indian School Road  
S/B at Scottsdale Road and Shea  
N/B at Scottsdale Road and Cactus  
N/B at Scottsdale Road and Thomas Road  
E/B at 90<sup>th</sup> Street and Shea Blvd.  
N/B at Scottsdale Road and Frank Lloyd Wright Boulevard

All sites may be moved, from time to time, at the anniversary date, as directed by the City. The City will not be charged any costs or fees for moving from an existing site to a new site any of the existing 11 red light speed on green or mid-block fixed speed sites. In addition, the City will not be charged any costs or fees for the addition of any new sites not served by any photo enforcement equipment during the term of this Contract. The City will be charged the following costs if a new ATS site is established on or after July 1, 2007 and the City requests that ATS move this ATS site to a new location. In that event, the following costs will be charged to the city for the relocation of the equipment to a new site:

- Red light camera or speed camera (one front and one rear camera) – 2 lanes - \$30,000.
- Red light camera or intersection speed camera (one front and one rear camera) – 4 lanes - \$33,000.
- Red light camera with separate left turn or intersection speed camera (2 front cameras and one rear camera) – 4 lanes - \$38,000.
- Mid-block fixed speed camera (one front and one rear camera) – 2 lanes - \$25,000.
- Mid-block fixed speed camera (one front and one rear camera) – 4 lanes - \$27,500.
- Mid-block fixed speed camera (two front cameras and one rear camera) – 4 lanes – \$30,000.

These prices assume taking all hardware from one site and installing it in a newly constructed site leaving nothing behind at the previous site.



### 13.0 TERMINATION AND FUNDS APPROPRIATION

#### 13.1 TERMINATION

- a. Termination for Convenience. The City reserves the right to terminate this contract or any part of it at its sole convenience after giving 90 days written notice as required in the Notice provision in Section 14.11. Upon termination, the Contractor must immediately stop all work and immediately order any of its suppliers and subcontractors to stop all work. As payment in full for services performed to the date of the termination, the Contractor will receive a fee for the percentage of services actually completed. Stopping all work means that all intersection, fixed and mobile cameras are turned off. The Contractor will continue to process all violations previously photographed until all have a successful disposition, unless the Contract Administrator determines otherwise.
- b. This fee will be in an amount both parties agree to, based on the terms of this Contract. If there is no mutual agreement, the Contract Administrator will pay any unpaid invoice and the unpaid portion of all months of completed services. The Contractor's compensation will be based upon this determination. The City will make this final payment within 60 days after the Contractor has delivered the last of the invoices for a partially completed month of service.
- c. The Contractor will not be paid for any intersection, fixed or mobile camera work done after receipt of the notice of termination, or for any costs incurred by the Contractor's suppliers or subcontractors, which Contractor could reasonably have avoided.
- d. Termination for Cause: After first giving 7 days notice, as required in Section 14.11, the City may terminate this contract or any part of it after a default by the Contractor that is caused by the Contractor's failure to comply with any of the terms and conditions of this contract. If the default is one that can not reasonably be cured within 7 days after the date of notice, the Contract Administrator may allow the time he believes is reasonable under the circumstances to cure the default, provided the Contractor has commenced its cure of the default within 7 days. Unsatisfactory performance as judged by the Contract Administrator, and failure to provide the City, upon request, with adequate assurances of future performance will all be causes allowing the City to terminate this Contract for cause. In the event of termination for cause, the City will not be liable to the Contractor for any amount, and the Contractor will be liable to City for any and all damages caused by the default.
- e. If the Contractor is in violation of any Federal, State, County, or City law, regulation, or ordinance, the City may terminate this contract immediately upon giving notice to the Contractor.
- f. If the City improperly terminates this Contract for cause, the termination for cause will be converted to a termination for convenience, as stated in Section 13.1(a).

### **13.2 CONTRACTOR'S CLOSE OUT OBLIGATIONS AFTER TERMINATION OF CONTRACT**

Upon the expiration or termination of this Contract, the Contractor shall remain responsible for all processing stages on all detections that occurred during the term of this Contract, but before the expiration or termination of the Contract. For purposes of this paragraph, the term "processing stages" will include courtroom testimony, and any other actions required to complete the evaluation and prosecution of all violation detections. The Contractor and the Contract Administrator will agree on a time believed by both parties to be a reasonable time to complete all processing stages to successful disposition and will set that time for Contract expiration or termination. If, at the end of that period, there are processing stages that remain uncompleted, the Contract Administrator may extend the time for a maximum of 60 additional days, at which time the contract will expire or terminate. The City will pay the Contractor for all these services at the same per citation successful disposition rates as provided for under the terms of the Contract. The monthly fee will not be paid as a part of this Contract close out process.

### **13.3 FUNDS APPROPRIATION**

If the City Council does not appropriate funds to continue this Contract and pay for charges, the City may terminate this Contract at the end of the current fiscal year. The City agrees to give written notice as required by Section 14.11 of termination to the Contractor at least 30 days before the end of its current fiscal year and will pay to the Contractor all approved and invoiced charges through the end of the fiscal year.

## **14.0 GENERAL TERMS**

### **14.1 ENTIRE AGREEMENT**

The following items from the Contractor's proposal, dated February 6, 2007, will be revised or deleted from the contract as follows:

Page 22-In Section 5.2, the following sentence will be deleted: "We are prepared to manage the removal of the current camera infrastructure, which would insure a smoother transition and re-installation process with little or not downtime for each camera." The City will make a determination as to whether it or the Contractor will remove the current camera infrastructure on a site by site basis.

Page 25-Section 5.3.2 entitled Hard Cutover Implementation is not accepted by the City and is deleted from the Contract.

Page 29-Section 5.5.1 entitled Enhanced Two-Factor Authentication for Superior Date Security is not accepted by the City and is deleted from the Contract.

Page 59-Section 5.11, the eleventh bullet point starting in the middle of that page and reads as follows is not accepted by the City and is deleted from the Contract: "Documentation Escalation / Process Serving for over-due unpaid citations / notices." The City will provide all service of process.

Page 82-Section 7.1.3, the City elects not to use the Opticom Priority Control System or the GPS Priority Control System and is deleted from the Contract.

This Contract is the entire agreement of the parties and supersedes all previous agreements, written or oral, concerning the services required by this Contract. This Contract may not be modified or amended except by a written document, signed by authorized representatives of each party.

#### **14.2 ARIZONA LAW**

This Contract will be governed and interpreted according to the laws of the State of Arizona.

#### **14.3 LOCAL CONDITIONS, RULES, AND REGULATIONS**

The Contractor must familiarize itself with the nature and extent of the Contract Documents, work to be performed, all local conditions, and federal, state, and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the work.

#### **14.4 ASSIGNMENT**

Services covered by this Contract will not be assigned or sublet in whole or in part without first receiving the written consent of the Purchasing Director and Contract Administrator.

#### **14.5 SUCCESSORS AND ASSIGNS**

This Contract will extend to and is binding upon the Contractor, its successors and assigns, including any individual or entity with which the Contractor may merge, or be liquidated, or any person or entity to which the Contractor may sell its assets.

#### **14.6 CONTRACT ADMINISTRATOR**

The Contract Administrator for the City is Bruce Kalin. The Contract Administrator or designee will oversee the execution of this Contract, assist the Contractor in accessing the organization, audit billings, and approve payments. The Contractor must channel reports and special requests through the Contract Administrator.

#### **14.7 RECORDS AND AUDIT RIGHTS**

The Contractor's records (hard copy, as well as computer readable data), and any other supporting evidence considered necessary by the City to substantiate charges and claims related to this contract must be open to inspection and subject to audit and reproduction by the City's authorized representative, as necessary to adequately permit evaluation and verification of the cost of the work, including any invoices, change orders, payments or claims submitted by the Contractor or any of his payees as required by this contract. The City's authorized representative must be afforded access, at reasonable times and places, to all of the Contractor's records and personnel as required by this Section throughout the term of this Contract and for a period of 3 years after the final payment. The Contractor will require all subcontractors, insurance agents, and material

suppliers (subcontractor) to comply with the provisions of this Section by insertion of these requirements in any written contract between the Contractor and a subcontractor.

If an audit discloses overcharges, of any nature, by the Contractor to the City in excess of 1% of the previous 12 months total contract billings, the actual cost of the City's audit will be reimbursed to the City by the Contractor. Any adjustments and payments required by the audit or an inspection of the Contractor's invoices and records will be made within a reasonable amount of time (not to exceed 90 days) from presentation of the City's findings to the Contractor. The Audit Rights do not include the right to audit any of the Contractor's internal project costs, product costs or operational costs including subcontractor costs.

#### **14.8 ATTORNEY'S FEES**

Should either party bring any action for any relief, declaratory or otherwise, arising out of this Contract, the prevailing party will be entitled to received from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will have accrued at the start of the action and will be enforceable even if the action does not go to judgment.

#### **14.9 INDEPENDENT CONTRACTOR**

The services the Contractor provides to the City are that of an Independent Contractor, not an employee, or agent of the City. The City will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

#### **14.10 CONFLICT OF INTEREST**

The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee, or consultant of any other party to the contract in any capacity, with respect to the subject matter of the contract. The cancellation will be effective when written notice from the City is received by all other parties to the contract, unless the notice specifies a later time (A.R.S. §38-511).

#### **14.11 NOTICES**

All notices or demands required to be made by this Contract must be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses stated below, or to any other address a party may substitute by written notice given as required in this section.

In the case of Contractor:

Adam Tuton  
Executive Vice President  
American Traffic Solutions, Inc.  
14861 N. Scottsdale Road, Suite 109  
Scottsdale, Arizona 85254  
(480) 443-7000

In the case of City:

Bruce Kalin  
Contract Administrator  
City of Scottsdale  
8401 E. Indian School Road  
Scottsdale, AZ 85251  
(480) 312-7071

Notices will be considered received on the date delivered, if delivered by hand, and on the delivery date indicated on the receipt if delivered by certified or registered mail.

#### **14.12 FORCE MAJEURE**

Neither party will be responsible for delays or failures in performance resulting from acts beyond their control. These acts will include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

#### **14.13 TAXES**

The Contractor will be solely responsible for any and all tax obligations, arising out of the Contractor's performance of this Contract. The City will have no obligation to pay any amounts for taxes of any type incurred by the Contractor.

#### **14.14 ADVERTISING**

No advertising or publicity concerning the City using the Contractor's services will be undertaken without first obtaining written approval of the advertising or publicity by the Contract Administrator.

#### **14.15 COUNTERPARTS**

This Contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract will possess the full force and effect of the original.

#### **14.16 CAPTIONS**

The captions used in this Contract are solely for the convenience of the parties, are not a part of this Contract and are not to be used to construe or interpret this Contract.

#### **14.17 SUBCONTRACTORS**

During the performance of the Contract, the Contractor may engage additional subcontractors as may be required for the timely completion of this Contract. The addition of any subcontractors must first be approved by the Contract Administrator. If there is subcontracting, the Contractor is solely responsible for the proper completion of all terms of the contract.

#### **14.18 WARRANTY**

The Contractor expressly warrants that all goods or services furnished under this contract will conform to all specifications and standards. The Contractor warrants that all goods and materials furnished will be merchantable, and will be safe and appropriate for the purpose for which the services of that kind are normally used. If the Contractor knows or has reason to know the particular purpose for which the City intends to use the goods, the Contractor warrants that such goods will be fit for that particular purpose.

The Contractor agrees to replace or correct defects in any goods not conforming to this warranty quickly, without expense to the City, when notified of any nonconformity by the City, if the City elects to give the Contractor the opportunity to do so. If the Contractor fails to correct defects in or replace nonconforming goods quickly, the City, after reasonable notice to the Contractor, may make any corrections or replace any goods and charge the Contractor for the cost incurred by the City. If this happens, the Contractor must reimburse the City for the costs, delays, or other damages that the City has incurred.

All work performed by the Contractor and its subcontractors must meet industry accepted standards of excellence and must be performed in a workmanlike manner by staff with necessary skills, experience and knowledge.

#### **14.19 PATENTS**

The Contractor agrees, after receiving notice, to quickly assume full responsibility for the defense of any court proceeding which is, has been, or may be brought against the City and its agents or Contractors for alleged patent or copyright infringement, or both, as well as for alleged unfair competition resulting from similarity in design, trademark or appearance of goods caused by the use or sale of any goods furnished under this contract except for goods manufactured entirely to the City's specifications.

The Contractor also agrees to defend, indemnify and hold harmless the City against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees caused by any suit or proceeding including any settlement or decree of judgment entered. The City may be represented by and actively participate through its own counsel in any suit or proceedings if it so desires.

#### **14.20 RIGHTS AND REMEDIES**

No provision in this Contract or in the Contractor's offer will be construed, expressly or by implication, as a waiver by the City of any existing or future right and remedy available by law if there is any claim or default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, or the payment for materials or services, will not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and will not be construed a waiver of any right of the City to insist upon the strict performance of the Contract.

#### **14.21 CONTRACT MODIFICATION AND AMENDMENTS**

A Contract Modification and amendments alters the terms of the Contract and must be signed by all the parties signing the original contract. This Contract may be amended from time to time as found necessary, subject to the approval of both parties.

#### **14.22 CONTRACT CHANGE ORDER**

The City may, as necessary, order changes within the Scope of the Work without invalidating this Contract.

The City also may, at any time, by a written Change Order from the Contract Administrator, make changes in the details of the work not affecting price. The Contractor must proceed with the performance of any changes in the work unless the Contractor believes that the written request entitles him to a change in price, in which case, the Contractor must give the City written notice within 5 days after the receipt of the Contract Administrator's written Change Request. The Contractor will not carry out any service changes until it is determined that a Change Order is proper. If the Contractor performs work authorized under a written Change Order without first getting approval of a price change, and later claims a price change, the City will not be required to honor the price change.

The Contractor may start changes in the work by completing a Change Order and submitting it to the Contract Administrator. Any Change Order submitted by the Contractor must be submitted within 5 days of identifying the subject of the Change Order. The Contract Administrator and the Contractor's Project Manager will assess the need to include the change in the Scope of Work. If the change is approved and does not affect price, the Change Order will be processed as required in this Section.

Contract Change Orders are subject to the Rules and Procedures of the City's Procurement Code.

#### **15.0 EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this Contract the Contractor will follow the Federal government's Affirmative Action guidelines to ensure that employees or applicants applying for employment will not be discriminated against because of race, color, religion, sex or national origin. The Contractor understands and acknowledges the applicability of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it.

#### **16.0 INSURANCE IS SEPARATE AND INDEPENDENT**

The insurance provisions in this Contract are separate and independent from the indemnity provisions of this section and will not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section will not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

**16.1 INDEMNIFICATION**

The Contractor, at its own expense, must defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials, and employees against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, attorney fees, court costs, cost of appellate proceedings, and all claim adjusting and handling expense arising out of any negligent or intentional acts, actions, errors, mistakes or omissions caused by the Contractor. The Contractor is defined as the Contractor, its successors, assigns and guarantors, any subcontractor or anyone directly or indirectly employed by the Contractor or subcontractor or anyone for whose acts the Contractor or subcontractor may be liable and any injury or damages claimed by any of the Contractor's or subcontractor's employees.

**16.2 INDEMNITY REGARDING LICENSED SOFTWARE SYSTEMS**

The Contractor, at its own expense, must defend, indemnify and hold harmless the City, its officers, officials, employees and agents as to any claim, demand, cause of action, debt or liability, including attorneys' fees, if based upon a claim that the Software used infringes or violates any patents, copyrights, trade secrets, licenses, or other property rights of any third party, whether or not the claim is successful. The City may, at its own expense, assist in any defense if it so chooses, and that, if the Contractor can demonstrate sufficient financial resources, the Contractor will control the defense and all negotiations relative to the settlement of any claim. The City will promptly provide the Contractor with written notice of any claim that the City believes falls within the scope of this section. If the Software or any portion of it is held to constitute an infringement and its use is enjoined, the Licensor, at its own expense, will have the obligation to:

- a. Modify the infringing Software without impairing in any material respect the functionality or performance, so that it is non-infringing.
- b. Procure for the City the right to continue to use the infringing Software.
  - 1. Replace the Software with equally suitable, non-infringing software. If none of these alternatives are available to the Licensor, the City will receive a repayment of all monies paid to the Licensor, and the Contractor must accept return of the Software at its expense, once the City has arranged for the continuation of the functions performed by that software.

**17.0 INSURANCE REPRESENTATIONS AND REQUIREMENTS**

- a. General

The Contractor agrees to comply with all applicable City ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of the Contractor, the Contractor must purchase and maintain, at its own expense, the required minimum insurance in a company or companies lawfully authorized to do business in the State of Arizona with an AM Best, Inc. rating of B ++ 6 or above with policies and forms satisfactory to the City. Failure to maintain insurance as required may result in termination of this Contract at the City's option.

- b. No Representation of Coverage Adequacy



By requiring insurance, the City does not represent that coverage and limits will be adequate to protect the Contractor. The City reserves the right to review any and all of the insurance policies and endorsements cited in this Contract, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements of this Contract or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Contract.

c. Coverage Term

The Contractor must maintain all required insurance in full force and effect until all work or services are satisfactorily performed and accepted by the City unless specified otherwise in this Contract.

d. Claims Made

If any required insurance policies are written on a "claims made basis", coverage must extend for 3 years past completion and acceptance of the work or services. The Contractor must annually submit Certificates of Insurance citing that the applicable coverage is in effect and contains the required provisions for the 3 year period.

**17.1 POLICY DEDUCTIBLES AND OR SELF-INSURED RETENTIONS**

The required policies may provide coverage which contain deductibles or self-insured retention amounts. The Contractor is solely responsible for any deductible or self-insured retention amount. The City, at its option, may require Contractor to secure payment of the deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

**17.2 USE OF SUBCONTRACTORS**

If any work is subcontracted in any way, the Contractor must execute a written agreement with the Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor. The Contractor is responsible for executing the agreement with the Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

**17.3 EVIDENCE OF INSURANCE**

- a. Before starting any work or services under this Contract, the Contractor must furnish the City with Certificate(s) of Insurance, or formal endorsements issued by Contractor's insurer(s) as evidence that policies are placed with acceptable insurers and provide the required coverage, conditions, and limits of coverage and that the coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Contract. The certificates must identify the contract work number and be sent to the designated City Contract Administrator. If any of the required policies expire during the life of this Contract, the Contractor must

forward renewal Certificates to the City within ten (10) days after the renewal date containing all the necessary insurance provisions.

- b. Certificates must contain the following specific provisions:
  - 1. The City of Scottsdale, its agents, representatives, officials, officers, directors, officials and employees are named as an Additional Insured as follows:
  - 2. Commercial General Liability
  - 3. Auto Liability
  - 4. Excess Liability - Follow Form to underlying insurance as required.
- c. The Contractor's insurance must be primary insurance for all performance of work under this Contract.
- d. All policies, including Workers Compensation, waive rights of recovery (subrogation) against the City, its agents, representatives, officials, officers, directors, and employees for any claims arising out of work or services performed by Contractor under this Contract.

Certificates must cite 30-day advance notice cancellation provisions. If the ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" must be deleted. Certificate forms other than the ACORD form must have similar restrictive language deleted.

#### **17.4 REQUIRED COVERAGE**

- a. Commercial General Liability.

The Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy must cover liability arising from premises, operations, independent contractors, products-completed operations, and personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than the underlying insurance.

- b. Vehicle Liability.

The Contractor must maintain Business Automobile Liability insurance with a limit of \$1,000,000 each accident on the Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than the underlying insurance.

c. Workers' Compensation Insurance.

The Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services under this Contract and must also maintain Employers' Liability Insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

**18.0 SEVERABILITY AND AUTHORITY**

**18.1 SEVERABILITY**

If any term or provision of this Contract is found to be illegal or unenforceable then despite this illegality or unenforceability, this Contract will remain in full force and effect and the term or provision will be considered to be deleted.

**18.2 AUTHORITY**

Each party warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized to enter this Contract. Each party acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

**SIGNED BY** its Mayor and attested by its City Clerk, this 8th day of May, 2007.

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By: Mary Manross  
Mary Manross, Mayor

ATTEST:  
Carolyn Jagger  
Carolyn Jagger, City Clerk

CONTRACTOR:  
American Traffic Solutions, Inc.

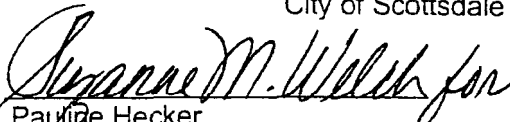
By: AS


Its: CVP/COO

CONTRACT ADMINISTRATOR:

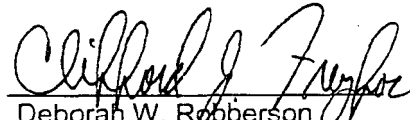
By: Bruce Kalin  
Bruce Kalin

City of Scottsdale Reviewed:

By:   
Pauline Hecker  
Risk Management Director

By:   
Monroe C. Warren  
Purchasing Director

APPROVED AS TO FORM:

  
Deborah W. Roberson  
City Attorney

<b>ACORD<sub>tm</sub></b>		<b>CERTIFICATE OF LIABILITY INSURANCE</b>			<b>DATE (MM/DD/YY)</b>	
PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
		<b>COMPANIES AFFORDING COVERAGE</b>				
		COMPANY A				
		COMPANY B				
INSURED		COMPANY C				
		COMPANY D				
<b>COVERAGES</b> THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
Co 1 tr	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (mm/dd/yy)	POLICY EXPIRATION DATE (mm/dd/yy)	LIMITS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> OWNERS & CONTRACTORS PROT				GENERAL AGGREGATE \$ PRODUCTS COMP/OP AGG \$ PERSONAL & ADV INJURY \$ EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ COMBINED SINGLE LIMIT \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$	
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY EA ACCIDENT \$ OTHER THAN AUTO ONLY: \$ EACH ACCIDENT \$ AGGREGATE \$	
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$ \$	
	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY THE PROPRIETOR/ <input type="checkbox"/> INCL PARTNERS/EXECUTIVE <input type="checkbox"/> EXCL OFFICERS ARE:				WC STATU- TORY LIMITS OTHER EL EACH ACCIDENT \$ EL DISEASE . POLICY LIMIT \$ EL DISEASE . EA EMPLOYEE \$	
	Other:					
<b>Description of Operations/Locations/Vehicles/Special Items:</b> City of Scottsdale, its representatives, agents and employees, is an Additional Insured under Commercial General Liability and Auto Liability. All cited insurance shall be primary coverage and waive rights of recovery (subrogation), including Workers Compensation, against City of Scottsdale. No policy shall be canceled or materially changed without 30 days advance written notice. Certificate not valid unless signed by authorized representative of insurance company. <b>APPLICABLE CONTRACT NUMBER:</b> (bid number).						
CERTIFICATE HOLDER				<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE		

# CITY OF SCOTTSDALE CERTIFICATE OF INSURANCE

City Department:	Project Title:	Contract #:		
Companies Affording Coverage		Current State of Arizona License		Current A.M. Best Rating
Producer:	A. _____	Yes	No	_____
Insured:	B. _____	_____	_____	_____
	C. _____	_____	_____	_____
	D. _____	_____	_____	_____
	E. _____	_____	_____	_____

This is to certify that the insurance policies listed below have been issued to the insured named above for the policy period indicated.

Co Ltr	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (mm/dd/yy)	POLICY EXPIRATION DATE (mm/dd/yy)	LIMIT (,000)
	General Liability <input type="checkbox"/> Commercial General Liability <input type="checkbox"/> Occurrence <input type="checkbox"/> Claims Made <input type="checkbox"/> Owner's & Contractor's Prot. <input type="checkbox"/> Per Project Product/Completed Operations				General Aggregate Products-Comp/Op Agg. \$ _____ Personal & Adv. Injury \$ _____ Each Occurrence \$ _____ Fire Damage (any one fire) \$ _____ Med. Exp. (any one person) \$ _____
	Automobile Liability <input type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-Owned Autos <input type="checkbox"/> Garage Liability				Combined Single Limit  Bodily Injury (per person) \$ _____ Bodily Injury (per accident) \$ _____ Property Damage \$ _____
	Professional Liability <input type="checkbox"/> Type _____ <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence				\$ _____ \$ _____
	Excess Liability <input type="checkbox"/> Umbrella Form <input type="checkbox"/> Other than umbrella form <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence				\$ _____ \$ _____
	Workers Compensation				
	Employer's Liability				\$ _____ \$ _____ \$ _____
	Builder's Risk				
Other:					

**Description of Operations/Locations/Vehicles/Special Items:**

City of Scottsdale, its representatives, agents and employees, is an Additional Insured under Commercial General Liability and Auto Liability. All cited insurance shall be primary coverage and waive rights to recovery (subrogation), including Workers Compensation, against City of Scottsdale. No policy shall be canceled or materially changed without 30 days advance written notice. Certificate not valid unless signed by authorized representative of Insurance Company. **APPLICABLE CONTRACT NUMBER:** (bid number).

<b>CERTIFICATE HOLDER / ADDITIONAL INSURED</b> City of Scottsdale 9191 E. San Salvador Drive Scottsdale, AZ 85258	<b>Authorized Representative of the insurance company(ies)</b>  Signature: _____ Date: _____
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**MODIFICATION TO  
PHOTO ENFORCEMENT PROGRAM  
CONTRACT  
CITY OF SCOTTSDALE**

THIS CONTRACT, entered into this 19th day of June, 2007, is between the City of Scottsdale, an Arizona municipal corporation, and American Traffic Solutions, Inc., an Arizona Corporation.

**RECITALS**

- A. The City has entered into Contract No. 2007-063-COS (the ATS Contract) for photo enforcement on its City streets; and
- B. The State of Arizona has requested that the City continue, for a limited period of time, the photo enforcement program on the Loop 101; and
- C. The Contractor has agreed to install and operate a photo enforcement program on the Loop 101 within the legal boundaries of the City; and
- D. The City has entered into Intergovernmental Agreement No. 2007-092-COS with the Arizona Department of Public Safety (DPS) to provide for the installation and operation of the required Photo Enforcement Systems and for City prosecution of citations issued by the Contractor for violations occurring at no more than 6 sites on the Loop 101; and
- E. Contract No. 2007-063-COS is amended by the addition of this Contract Modification to provide for these services by the Contractor.

**IN CONSIDERATION** of the mutual covenants and obligations contained in this Contract Modification, the Parties agree as follows:

**1.0 RECITALS**

All Recitals are incorporated in this Addendum by this reference.

**2.0 PHOTO ENFORCEMENT SYSTEM ON LOOP 101**

The Contractor will use its best efforts to install not more than 6 Photo Enforcement Systems on the Loop 101 (SR101) within the legal boundaries of the City of Scottsdale. The Arizona Department of Public Safety (DPS) will work with the Contractor to expedite any necessary permitting and approvals for all construction, installation and testing work required to be conducted by the Contractor in accordance with IGA No. 2007-092-COS.

- a. The incumbent vendor will terminate its photo enforcement operations at Photo Enforcement sites (a) and (b) as listed in Section 2.1 at midnight on June

30, 2007. The Contractor will have these 2 Photo Enforcement Systems fully operational at these 2 sites no later than midnight, July 15, 2007.

b. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (c) and (d) as listed in Section 2.1 at midnight, July 10, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 21, 2007.

c. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (d) and (e) at midnight, July 20, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 31, 2007.

d. The Contractor will be responsible for any costs incurred in repairing any damage done by its employees to the incumbent vendor's equipment, and the incumbent vendor will be responsible for any costs incurred in repairing any damage done by its employees to the Contractor's equipment. The Contractor may accelerate the above schedule at its prerogative if site conditions allow. All installation and operation of the Systems will be in full conformance with the terms and conditions of the ATS Contract, subject only to differences in the required types of photo enforcement equipment for use on the Loop 101 and the permitting and installation requirements of the Arizona Department of Transportation (ADOT).

e. DPS has agreed to use its best efforts to expedite all necessary permitting and approvals to meet this schedule for fully operational sites. The obligation of the Contractor to meet this schedule is contingent on obtaining and retaining the necessary Permit to use state highway right of way. If DPS is unable to obtain these permits or if the State revokes the permits at a later date, the provisions of this Contract Modification and all of the obligations of the City and DPS are void, and this Contract Modification will immediately terminate. The Contractor will not be subject to penalties if the above schedule is not attained due to factors beyond the Contractor's control.

## **2.1 SELECTED ENFORCEMENT SITES**

The locations listed in this Section 2.1 describe the incumbent vendor's existing Loop 101 Photo Enforcement sites. It is the desire of DPS that the Contractor install its Photo Enforcement Systems at the same site locations, taking into consideration the need to make reasonable efforts not to interfere with the incumbent vendor's equipment or operations. The Contractor will install and operate not more than 6 Photo Enforcement Systems at the following sites, and that the sites will be installed and activated in this order of priority:

- a. Eastbound Loop 101 at Scottsdale Road;
- b. Westbound Loop 101 at Hayden Road;
- c. Southbound Loop 101 at Raintree Drive;
- d. Northbound Loop 101 at Shea Boulevard;
- e. Southbound Loop 101 at Shea Boulevard;
- f. Northbound Loop 101 at Cactus Road.



## **2.2     ATS APPLICATION OF CONTRACT STANDARDS TO LOOP 101**

The Contractor will use its best efforts to install and operate the Photo Enforcement Systems on the Loop 101 to the same standards and requirements, where applicable, as provided to the City of Scottsdale in the ATS Contract, including, but not limited to Sections 2.0, 3.1(a), 5.2, 7.1 and 7.2. All penalty fees authorized in the ATS Contract may be imposed by the City on the Contractor, at the request of DPS, where the circumstances can fairly and reasonably be determined to be a violation of the ATS Contract or the Contract Modification by the Contractor.

## **3.0     TERM OF CONTRACT MODIFICATION**

This Contract Modification will begin on July 1 and terminate at midnight, December 31, 2007 unless extended by mutual agreement of the City, the State of Arizona, and the Contractor. Any extensions by the City may be authorized by the Scottsdale City Manager for not more than 60 days.

## **4.0     ENFORCEMENT STANDARDS**

In all instances, DPS will determine the appropriate speed enforcement margin for a particular location for DPS citations. DPS will work with the Contractor and ADOT to arrive at an acceptable solution for any Photo Enforcement work DPS may desire in construction zones.

## **5.0     DPS PARTICIPATION**

On behalf of DPS, ATS will be responsible for the Police authorization phase of citation processing, including the issuance and final authorizations of citation and the proper signing by authorized personnel, of all citations and NOV's from the Loop 101 Photo Enforcement sites. All citations must be issued in accordance with standards set by the City and will be cited into Scottsdale Municipal Court ("City Court"). For these services on behalf of DPS, the Contractor will be paid an additional fee of \$5.00 for each citation or NOV reaching a successful disposition. All revenues derived from the citations will remain with the City and be disposed of as directed by law, ATS contractual requirements and City Council directives. All surcharges will be transmitted to the State as required by law. DPS has agreed to assign a dedicated project manager and staff sufficient to ensure that citations and other Photo Enforcement operations are completed in a timely manner and citation approvals are completed in time to meet all Scottsdale Municipal Court filing requirements, as set forth in the ATS Contract.

### **5.1     POSTING OF REQUIRED SIGNAGE**

On behalf of DPS, the Contractor will post the required Photo Enforcement signage as required by A.R.S. §28-654, as amended, on the Loop 101 at the Contractor's expense.

## **6.0 DPS SYSTEMS COMPATIBILITY WITH ATS SYSTEMS**

DPS has agreed to access and utilize the Contractor software system, and will run the Contractor authorized web based applications on their work stations. DPS has also agreed to be responsible for the costs of purchase and installation of any necessary software and hardware to make its systems compatible with the Contractor by July 15, 2007.

## **7.0 VEHICLE REGISTRATIONS AND DRIVER'S LICENSE INFORMATION**

Vehicle registration and driver's license information is required to issue citations and Notices of Violation. For Arizona drivers and registered vehicles, DPS will make this information available to the Contractor at no cost. The Contractor must obtain out-of-state registration and Driver's License information, if available, at its expense, within the times required for issuing citations when the state of issuance provides to the Contractor, registration and driver's license expiration dates and status (e.g., Expired, Cancelled, Suspended, Revoked, ID Card Only) and the Contractor will forward this information to DPS and the City. The Contractor will be receiving this information as an agent for DPS.

## **8.0 CITATION FORMAT AND TRACKING**

- a. All citations will be in a format approved by the Scottsdale City Court and the Arizona Supreme Court.
  1. Information mailed to defendants must include:
    - A. Citation
    - B. Photograph
    - C. Options for defendant
    - D. General photo enforcement information
  2. Information mailed to defendants may need to be updated on occasion due to changes in court processes and or legislation. The Contractor must be able to make changes to the Contractor's system in a timely manner and absorb all costs of changes and postage. Any cost to change Court software will be the responsibility of the Court.
- b. All citations must bear a unique citation number as directed by the Scottsdale City Court for tracking purposes (numbers must not duplicate each other or existing City numbers). The current requirements are that citation numbers consist of 8 digits. Each citation must contain the digital signature of an authorized DPS official.
- c. The digital format of the citation available during the DPS Authorization stage must include a drop-down menu to allow adding to the speed citation, additional observable traffic infractions, to include A.R.S. §28-2153, Expired Vehicle License; A.R.S. §28-2354, License Plate, Attachment; A.R.S. §28-2533, Failure to Register; A.R.S. § 28-751 and such other infractions as may be required by DPS. These functions are not required for initial

implementation and will coincide with the same functionality being implemented for the existing Contract between the Contractor and the City.

## **9.0 SERVICE OF CITATIONS**

- a. The Contractor must bear all costs for the mailing of citations, Notices of Violation, photographs/copies of photographs, printing, and other associated costs and expenses required to manage a professional processing center.
- b. Citations (initial or as a result of nominations) must be mailed and postmarked within 3 days after approval through the Police Authorization process. The Contractor will complete its review and approval process within 10 days after receiving the citation record. All processing must comply with court rules and state and city laws and regulations.
- c. The citation must be accompanied by specific, clear instructions. If there is no response within 30 days after mailing of the original citation to the violator, a copy of the citation and the violation photograph will be sent to DPS and the City by the Contractor, at no additional cost to DPS or the City. A copy of the citation and the violation photograph will be personally served on the violator by the City's process server contractor in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service. Personal service will be in accordance with Arizona Rules of Civil Procedure Rule 4.1 that governs Service of Summons upon Individuals. Personal service must be commenced within 45 days of the violation.
- d. DPS will receive notification from the City or the Contractor of all citations that require personal service and the Contractor will be responsible for contacting the City's process server contractor for all civil service of process as required by law. The costs of personal service will be an additional cost assessed against the violator.

## **10.0 NOTICES OF VIOLATION**

Instead of a citation, Notices of Violation will be issued in the following instances:

- a. To owners of vehicles for violations where the gender of the registered owner does not match that of the photographed driver.
- b. Where the vehicle is registered to a business or corporation.
- c. Where the vehicle photographed does not match the description on the registration.

The Notice of Violation format must include, where applicable, the speed limit and the actual speed. Any photograph attached to the Notice of Violation will be in color and of the same quality as those attached to citations. All future modifications to Notices of Violation will be made at no expense to DPS or the City, as required by the Contract Administrator, and as agreed to by DPS.

## **11.0 DISPOSITION OF PHOTO ENFORCEMENT EQUIPMENT**

Upon termination of this Agreement for whatever reason, DPS will take ownership of the following system components:

- All camera pole foundations, below ground conduit, wiring, detection loops, and piezos.

On termination of the Loop 101 Program and this Contract Modification, the Contractor will have no obligation to restore the site to its original condition upon withdrawal from the site on Contract termination. Should Photo Enforcement Services on the Loop 101 be desired at the end of the term of this Agreement, the Contractor will cooperate in good faith in the transition from one vendor to another, permitting the new vendor, if other than the Contractor, to use any existing camera pole foundations, below ground conduit, wiring, detection loops and piezos. The Contractor will assume no responsibility or liability in any way for the continued use of this equipment by another vendor. Good faith cooperation includes the removal of its equipment described below, not more than 3 days before the end of the term, provided the rental income due the Contractor is not reduced. If the Contractor is required to remove its equipment, it will carefully disconnect each component and will not remove, cut or damage any wire connections within the poles, control cabinets, pull boxes and below ground conduit.

The Contractor will be responsible for the removal, and will retain ownership, of:

- All still cameras, enclosures and cabinets.
- All video cameras.
- All flash units and enclosures.
- All computer components connected to the above listed items.

## **12.0 REPORTING**

- a. The City will require the Contractor to submit to the City, on behalf of DPS, through the Contract Administrator, a monthly report of photo enforcement results on the Loop 101. DPS will receive copies of all reports.
- b. Monthly reports must be provided within 20 days after the end of the previous month. The report must include the following information:
  1. Total number of violations photographed, including totals by location;
  2. Total number of actionable violation images, including totals by location;
  3. Total number of non-actionable violation images by major category (i.e., face obstruction, glare, gender match, etc.);
  4. Total number of citations filed with the Scottsdale City Court.

5. Total number of violators that have responded to the court after the mailed citation;
  6. Total number of speed digital images taken by the fixed speed camera systems and the number of those images that result in citations;
  7. Total number of citations eligible for process service in state and out of state;
  8. Total number of citations actually served in state and out of state.
- c. DPS will review all reports and audits to verify the Contractor's performance to make recommendations as to program modifications and to evaluate overall program effectiveness.
  - d. The Contractor, if requested by the City on behalf of DPS, will provide any other reports and documents mutually agreed upon and useful to further the mission of reducing collisions, at no additional cost to the City or DPS.

### **13.0 BILLING AND PAYMENT; BILLING RECORDS; FEES**

#### **13.1 BILLING AND PAYMENT**

- a. The City and the Contractor have set up billing and accounting procedures acceptable to the City, providing itemized billing statements in a form approved by the City.
- b. The City will use the same billing and accounting procedures for Loop 101 citations. The Contractor will present to the City and DPS, duplicate invoices to receive payment for its services. DPS will authorize the City, within 10 days after receipt, to make payment to the Contractor based on the billing and accounting information provided by the Contractor. The billing must be at the contracted price, contain, if applicable, adjustments for additions, deletions, or changes in service and a credit for services charged but not performed.
- c. The City will make every effort to process payment for the services performed within 30 calendar days after receipt of the services and authorization of payment by DPS, and a correct invoice for amounts due, unless a good faith dispute exists concerning the invoice. Any good faith disputes will be resolved by the City, DPS and the Contractor.

#### **MAIL INVOICES TO:**

CITY OF SCOTTSDALE  
Photo Enforcement Contract Administrator  
Ass't Chief Sean Duggan  
8401 E. Indian School Road  
Scottsdale, AZ 85251

The City is not liable for delays in payment caused by failure of the Contractor to send invoices to the address specified or by the failure of DPS to authorize payment.

### **13.2 CONTRACTOR FEES**

The Contractor will be paid by the City from funds received for the Loop 101 Photo Enforcement Program. The Contractor will receive \$2761 per month for each operational Photo Enforcement site. This fee will be paid for the full monthly amount in the month a site becomes operational, and will not be prorated. The Contractor will receive a fee of \$42.48 for each speeding citation that results in a successful disposition. In addition, as compensation for completing the Police Authorization phase of citation and NOV processing, the Contractor will receive \$5.00 for each citation and NOV reaching a successful disposition. The monthly fees become effective upon the successful installation and operation of each new digital Photo Enforcement System. The average monthly number of citations that result in successful dispositions is 6,300. For Photo Enforcement sites located in construction zones only, it is agreed that if there is a drop of at least 15% in the number of successful dispositions for a period of 2 consecutive months, the Contractor may increase its citation fee by 10%. The rental fee will remain unchanged. The Contractor may receive a fee increase only one time during the term of this Agreement. The Contract Administrator will review the number of success dispositions to verify that there was a drop of at least 15% for a period of 2 consecutive months, and determine the timing of the increase. The decision of the Contract Administrator is final.

Billing and payment by the City will be in compliance with the provisions of Section 12.0 of the ATS Contract. The City will pay for violations of A.R.S. § 28-701(A) only, and no other charges. Monthly rental fees are based on an assumption of continuous 24 hours per day, 7 days per week functionality. If a fixed photo enforcement system sites becomes non-functional for any reason due to the Contractor's actions, the City will prorate payment based on actual hours of operation of the system. No deduction will be made by the City for down time with a duration of less than 48 hours. Any period of time greater than 48 hours, but less than 72 hours will be deducted as one full day. The City will continue to pay the Contractor the full monthly rental fees if any systems are non-functional due to events not within the control of the Contractor. (Example: a motor vehicle crashes into a pole destroying detection system components.)

### **13.1 REIMBURSEMENT FOR LOOP 101 CONSTRUCTION**

If during the term of this Agreement, activities related to HOV lane construction cause the relocation or reinstallation of the in-road sensors, the Contractor will be reimbursed by the City from Program funds for all costs associated with such relocation or reinstallation in an amount not to exceed \$15,000 per traffic lane. The Contract Administrator of the City will determine the timing of the reimbursement, but in no event will reimbursement be paid to the Contractor later than the 31<sup>st</sup> day of December, 2007.

### **14.0 TERMINATION**

DPS or the City may terminate this Agreement for convenience or cause upon 60 days written notice to the Contractor and the other non-terminating governmental entity. Upon termination, the City will pay to the Contractor all outstanding amounts up through the time upon which the termination becomes effective and

all subsequent periods necessary to obtain successful dispositions or final adjudications on any citations or Notices of Violation issued prior to the termination, and that have not been covered by citation revenues. All property will be returned to the owning party upon termination.

#### **15.0 INDEMNIFICATION**

For the Contractor's obligations under this Contract Modification only, the indemnification provisions of the ATS Contract are amended by the following language:

The City assumes no financial obligation or liability in connection with the installation or operation by the Contractor of any of the Photo Enforcement Systems located on the Loop 101. The Contractor, at its own expense, will defend, indemnify and hold harmless the City and the State of Arizona, its officers, officials, employees, contractors, volunteers and departments from and against all suits, legal or administrative proceedings, actions, claims, damages, losses, expenses, attorneys fees, court costs, cost of appellate proceedings, and all claim adjusting and handling expenses arising out of any negligent or intentional acts, actions, errors, mistakes or omissions during the performance of this Contract Modification.

#### **16.0 INSURANCE REPRESENTATIONS AND REQUIREMENTS**

The Contractor will insure the City as provided in the ATS Contract and this Modification Agreement, and will name the State of Arizona as an additional insured under its policies of insurance for operations on the Loop 101. During the term of this Agreement, for the protection of the City and the State of Arizona, the Contractor will increase its Commercial General Liability insurance limits to \$20,000,000 for each occurrence, \$20,000,000 Products and Completed Operations Annual Aggregate, and a \$20,000,000 General Aggregate Limit. These limits are not in addition to the insurance requirements in the ATS Contract, but are intended to state the full amount of insurance required of ATS under the ATS Contract, the Intergovernmental Agreement with DPS and this Contract Modification. Upon the termination of the Loop 101 Photo Enforcement Program, the Contractor may reduce its insurance coverages back to those required in the ATS Contract.

The Parties agree that the ATS Contract and this Contract Modification and any modifications or extension to these Contracts is not a construction contract within the meaning of A.R.S. § 41-2586.

The insurance provisions in this Contract Modification are separate and independent from the defense, indemnity and hold harmless requirements and will not be construed in any way to limit the scope and magnitude of the defense, indemnity and hold harmless provisions of this Contract Modification. The defense, indemnity and hold harmless provisions will not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions of this Contract Modification.

**17.0 CONTRACT ADMINISTRATOR**

The City's Contract Administrator will be Asst. Chief Sean Duggan and the DPS Contract Administrator will be Commander Tom Woodard. The City's Contract Administrator will be responsible for setting standards for the issuance of DPS citations pursuant to this Agreement.

**18.0 PUBLIC RECORDS REQUESTS**

DPS will be responsible for responding to all media/citizen requests for information on the Fixed Photo Enforcement System on the Loop 101, including but not limited to requests for statistical information, Notices of Violation, photographs, and video clips.

**19.0 CONFLICT OF PROVISIONS**

All terms and conditions of the ATS Contract not in conflict with the provisions of this Contract Modification will remain in full force and effect.

**20.0 THIRD PARTY BENEFICIARY**

DPS is considered a third party beneficiary to this Agreement.

**SIGNED BY** the Mayor and attested by the City Clerk the day and year written above.

CITY OF SCOTTSDALE, an  
Arizona Municipal Corporation

By: \_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

CONTRACTOR:  
American Traffic Solutions, Inc.

Reviewed and Approved

By: \_\_\_\_\_  
Adam Tuton  
Chief Operating Officer

By: \_\_\_\_\_  
Cmdr. Tom Woodward  
Department of Public  
Safety

City Contract Administrator:

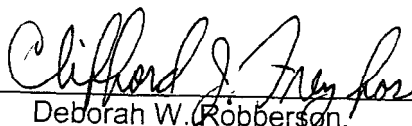
By: \_\_\_\_\_  
Ass't Chief Sean Duggan



By: \_\_\_\_\_  
Pauline Hecker  
Risk Management Director

By: \_\_\_\_\_  
Monroe Warren  
Purchasing Director

APPROVED AS TO FORM:

By:   
Deborah W. Robberson,  
City Attorney

**Exhibit B**

**MODIFICATION TO  
PHOTO ENFORCEMENT PROGRAM  
CONTRACT  
CITY OF SCOTTSDALE**

THIS CONTRACT, entered into this 19th day of June, 2007, is between the City of Scottsdale, an Arizona municipal corporation, and American Traffic Solutions, Inc., an Arizona Corporation.

**RECITALS**

- A. The City has entered into Contract No. 2007-063-COS (the ATS Contract) for photo enforcement on its City streets; and
- B. The State of Arizona has requested that the City continue, for a limited period of time, the photo enforcement program on the Loop 101; and
- C. The Contractor has agreed to install and operate a photo enforcement program on the Loop 101 within the legal boundaries of the City; and
- D. The City has entered into Intergovernmental Agreement No. 2007-092-COS with the Arizona Department of Public Safety (DPS) to provide for the installation and operation of the required Photo Enforcement Systems and for City prosecution of citations issued by the Contractor for violations occurring at no more than 6 sites on the Loop 101; and
- E. Contract No. 2007-063-COS is amended by the addition of this Contract Modification to provide for these services by the Contractor.

**IN CONSIDERATION** of the mutual covenants and obligations contained in this Contract Modification, the Parties agree as follows:

**1.0 RECITALS**

All Recitals are incorporated in this Addendum by this reference.

**2.0 PHOTO ENFORCEMENT SYSTEM ON LOOP 101**

The Contractor will use its best efforts to install not more than 6 Photo Enforcement Systems on the Loop 101 (SR101) within the legal boundaries of the City of Scottsdale. The Arizona Department of Public Safety (DPS) will work with the Contractor to expedite any necessary permitting and approvals for all construction, installation and testing work required to be conducted by the Contractor in accordance with IGA No. 2007-092-COS.

- a. The incumbent vendor will terminate its photo enforcement operations at Photo Enforcement sites (a) and (b) as listed in Section 2.1 at midnight on June

30, 2007. The Contractor will have these 2 Photo Enforcement Systems fully operational at these 2 sites no later than midnight, July 15, 2007.

b. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (c) and (d) as listed in Section 2.1 at midnight, July 10, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 21, 2007.

c. The incumbent vendor will terminate its Photo Enforcement operations at Photo Enforcement sites (d) and (e) at midnight, July 20, 2007. The Contractor will be fully operational at these 2 sites no later than midnight, July 31, 2007.

d. The Contractor will be responsible for any costs incurred in repairing any damage done by its employees to the incumbent vendor's equipment, and the incumbent vendor will be responsible for any costs incurred in repairing any damage done by its employees to the Contractor's equipment. The Contractor may accelerate the above schedule at its prerogative if site conditions allow. All installation and operation of the Systems will be in full conformance with the terms and conditions of the ATS Contract, subject only to differences in the required types of photo enforcement equipment for use on the Loop 101 and the permitting and installation requirements of the Arizona Department of Transportation (ADOT).

e. DPS has agreed to use its best efforts to expedite all necessary permitting and approvals to meet this schedule for fully operational sites. The obligation of the Contractor to meet this schedule is contingent on obtaining and retaining the necessary Permit to use state highway right of way. If DPS is unable to obtain these permits or if the State revokes the permits at a later date, the provisions of this Contract Modification and all of the obligations of the City and DPS are void, and this Contract Modification will immediately terminate. The Contractor will not be subject to penalties if the above schedule is not attained due to factors beyond the Contractor's control.

## **2.1 SELECTED ENFORCEMENT SITES**

The locations listed in this Section 2.1 describe the incumbent vendor's existing Loop 101 Photo Enforcement sites. It is the desire of DPS that the Contractor install its Photo Enforcement Systems at the same site locations, taking into consideration the need to make reasonable efforts not to interfere with the incumbent vendor's equipment or operations. The Contractor will install and operate not more than 6 Photo Enforcement Systems at the following sites, and that the sites will be installed and activated in this order of priority:

- a. Eastbound Loop 101 at Scottsdale Road;
- b. Westbound Loop 101 at Hayden Road;
- c. Southbound Loop 101 at Raintree Drive;
- d. Northbound Loop 101 at Shea Boulevard;
- e. Southbound Loop 101 at Shea Boulevard;
- f. Northbound Loop 101 at Cactus Road.

## **2.2     ATS APPLICATION OF CONTRACT STANDARDS TO LOOP 101**

The Contractor will use its best efforts to install and operate the Photo Enforcement Systems on the Loop 101 to the same standards and requirements, where applicable, as provided to the City of Scottsdale in the ATS Contract, including, but not limited to Sections 2.0, 3.1(a), 5.2, 7.1 and 7.2. All penalty fees authorized in the ATS Contract may be imposed by the City on the Contractor, at the request of DPS, where the circumstances can fairly and reasonably be determined to be a violation of the ATS Contract or the Contract Modification by the Contractor.

## **3.0     TERM OF CONTRACT MODIFICATION**

This Contract Modification will begin on July 1 and terminate at midnight, December 31, 2007 unless extended by mutual agreement of the City, the State of Arizona, and the Contractor. Any extensions by the City may be authorized by the Scottsdale City Manager for not more than 60 days.

## **4.0     ENFORCEMENT STANDARDS**

In all instances, DPS will determine the appropriate speed enforcement margin for a particular location for DPS citations. DPS will work with the Contractor and ADOT to arrive at an acceptable solution for any Photo Enforcement work DPS may desire in construction zones.

## **5.0     DPS PARTICIPATION**

On behalf of DPS, ATS will be responsible for the Police authorization phase of citation processing, including the issuance and final authorizations of citation and the proper signing by authorized personnel, of all citations and NOV's from the Loop 101 Photo Enforcement sites. All citations must be issued in accordance with standards set by the City and will be cited into Scottsdale Municipal Court ("City Court"). For these services on behalf of DPS, the Contractor will be paid an additional fee of \$5.00 for each citation or NOV reaching a successful disposition. All revenues derived from the citations will remain with the City and be disposed of as directed by law, ATS contractual requirements and City Council directives. All surcharges will be transmitted to the State as required by law. DPS has agreed to assign a dedicated project manager and staff sufficient to ensure that citations and other Photo Enforcement operations are completed in a timely manner and citation approvals are completed in time to meet all Scottsdale Municipal Court filing requirements, as set forth in the ATS Contract.

### **5.1     POSTING OF REQUIRED SIGNAGE**

On behalf of DPS, the Contractor will post the required Photo Enforcement signage as required by A.R.S. §28-654, as amended, on the Loop 101 at the Contractor's expense.

## **6.0 DPS SYSTEMS COMPATIBILITY WITH ATS SYSTEMS**

DPS has agreed to access and utilize the Contractor software system, and will run the Contractor authorized web based applications on their work stations. DPS has also agreed to be responsible for the costs of purchase and installation of any necessary software and hardware to make its systems compatible with the Contractor by July 15, 2007.

## **7.0 VEHICLE REGISTRATIONS AND DRIVER'S LICENSE INFORMATION**

Vehicle registration and driver's license information is required to issue citations and Notices of Violation. For Arizona drivers and registered vehicles, DPS will make this information available to the Contractor at no cost. The Contractor must obtain out-of-state registration and Driver's License information, if available, at its expense, within the times required for issuing citations when the state of issuance provides to the Contractor, registration and driver's license expiration dates and status (e.g., Expired, Cancelled, Suspended, Revoked, ID Card Only) and the Contractor will forward this information to DPS and the City. The Contractor will be receiving this information as an agent for DPS.

## **8.0 CITATION FORMAT AND TRACKING**

- a. All citations will be in a format approved by the Scottsdale City Court and the Arizona Supreme Court.
  1. Information mailed to defendants must include:
    - A. Citation
    - B. Photograph
    - C. Options for defendant
    - D. General photo enforcement information
  2. Information mailed to defendants may need to be updated on occasion due to changes in court processes and or legislation. The Contractor must be able to make changes to the Contractor's system in a timely manner and absorb all costs of changes and postage. Any cost to change Court software will be the responsibility of the Court.
- b. All citations must bear a unique citation number as directed by the Scottsdale City Court for tracking purposes (numbers must not duplicate each other or existing City numbers). The current requirements are that citation numbers consist of 8 digits. Each citation must contain the digital signature of an authorized DPS official.
- c. The digital format of the citation available during the DPS Authorization stage must include a drop-down menu to allow adding to the speed citation, additional observable traffic infractions, to include A.R.S. §28-2153, Expired Vehicle License; A.R.S. §28-2354, License Plate, Attachment; A.R.S. §28-2533, Failure to Register; A.R.S. § 28-751 and such other infractions as may be required by DPS. These functions are not required for initial

implementation and will coincide with the same functionality being implemented for the existing Contract between the Contractor and the City.

## **9.0 SERVICE OF CITATIONS**

- a. The Contractor must bear all costs for the mailing of citations, Notices of Violation, photographs/copies of photographs, printing, and other associated costs and expenses required to manage a professional processing center.
- b. Citations (initial or as a result of nominations) must be mailed and postmarked within 3 days after approval through the Police Authorization process. The Contractor will complete its review and approval process within 10 days after receiving the citation record. All processing must comply with court rules and state and city laws and regulations.
- c. The citation must be accompanied by specific, clear instructions. If there is no response within 30 days after mailing of the original citation to the violator, a copy of the citation and the violation photograph will be sent to DPS and the City by the Contractor, at no additional cost to DPS or the City. A copy of the citation and the violation photograph will be personally served on the violator by the City's process server contractor in accordance with the Arizona Rules of Civil Procedure. The City will be solely responsible for all personal service. Personal service will be in accordance with Arizona Rules of Civil Procedure Rule 4.1 that governs Service of Summons upon Individuals. Personal service must be commenced within 45 days of the violation.
- d. DPS will receive notification from the City or the Contractor of all citations that require personal service and the Contractor will be responsible for contacting the City's process server contractor for all civil service of process as required by law. The costs of personal service will be an additional cost assessed against the violator.

## **10.0 NOTICES OF VIOLATION**

Instead of a citation, Notices of Violation will be issued in the following instances:

- a. To owners of vehicles for violations where the gender of the registered owner does not match that of the photographed driver.
- b. Where the vehicle is registered to a business or corporation.
- c. Where the vehicle photographed does not match the description on the registration.

The Notice of Violation format must include, where applicable, the speed limit and the actual speed. Any photograph attached to the Notice of Violation will be in color and of the same quality as those attached to citations. All future modifications to Notices of Violation will be made at no expense to DPS or the City, as required by the Contract Administrator, and as agreed to by DPS.

## **11.0 DISPOSITION OF PHOTO ENFORCEMENT EQUIPMENT**

Upon termination of this Agreement for whatever reason, DPS will take ownership of the following system components:

- All camera pole foundations, below ground conduit, wiring, detection loops, and piezos.

On termination of the Loop 101 Program and this Contract Modification, the Contractor will have no obligation to restore the site to its original condition upon withdrawal from the site on Contract termination. Should Photo Enforcement Services on the Loop 101 be desired at the end of the term of this Agreement, the Contractor will cooperate in good faith in the transition from one vendor to another, permitting the new vendor, if other than the Contractor, to use any existing camera pole foundations, below ground conduit, wiring, detection loops and piezos. The Contractor will assume no responsibility or liability in any way for the continued use of this equipment by another vendor. Good faith cooperation includes the removal of its equipment described below, not more than 3 days before the end of the term, provided the rental income due the Contractor is not reduced. If the Contractor is required to remove its equipment, it will carefully disconnect each component and will not remove, cut or damage any wire connections within the poles, control cabinets, pull boxes and below ground conduit.

The Contractor will be responsible for the removal, and will retain ownership, of:

- All still cameras, enclosures and cabinets.
- All video cameras.
- All flash units and enclosures.
- All computer components connected to the above listed items.

## **12.0 REPORTING**

- a. The City will require the Contractor to submit to the City, on behalf of DPS, through the Contract Administrator, a monthly report of photo enforcement results on the Loop 101. DPS will receive copies of all reports.
- b. Monthly reports must be provided within 20 days after the end of the previous month. The report must include the following information:
  1. Total number of violations photographed, including totals by location;
  2. Total number of actionable violation images, including totals by location;
  3. Total number of non-actionable violation images by major category (i.e., face obstruction, glare, gender match, etc.);
  4. Total number of citations filed with the Scottsdale City Court.

5. Total number of violators that have responded to the court after the mailed citation;
  6. Total number of speed digital images taken by the fixed speed camera systems and the number of those images that result in citations;
  7. Total number of citations eligible for process service in state and out of state;
  8. Total number of citations actually served in state and out of state.
- c. DPS will review all reports and audits to verify the Contractor's performance to make recommendations as to program modifications and to evaluate overall program effectiveness.
  - d. The Contractor, if requested by the City on behalf of DPS, will provide any other reports and documents mutually agreed upon and useful to further the mission of reducing collisions, at no additional cost to the City or DPS.

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- a. The City and the Contractor have set up billing and accounting procedures acceptable to the City, providing itemized billing statements in a form approved by the City.
- b. The City will use the same billing and accounting procedures for Loop 101 citations. The Contractor will present to the City and DPS, duplicate invoices to receive payment for its services. DPS will authorize the City, within 10 days after receipt, to make payment to the Contractor based on the billing and accounting information provided by the Contractor. The billing must be at the contracted price, contain, if applicable, adjustments for additions, deletions, or changes in service and a credit for services charged but not performed.
- c. The City will make every effort to process payment for the services performed within 30 calendar days after receipt of the services and authorization of payment by DPS, and a correct invoice for amounts due, unless a good faith dispute exists concerning the invoice. Any good faith disputes will be resolved by the City, DPS and the Contractor.

#### **MAIL INVOICES TO:**

CITY OF SCOTTSDALE  
Photo Enforcement Contract Administrator  
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8401 E. Indian School Road  
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The City is not liable for delays in payment caused by failure of the Contractor to send invoices to the address specified or by the failure of DPS to authorize payment.



### **13.2 CONTRACTOR FEES**

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all subsequent periods necessary to obtain successful dispositions or final adjudications on any citations or Notices of Violation issued prior to the termination, and that have not been covered by citation revenues. All property will be returned to the owning party upon termination.

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For the Contractor's obligations under this Contract Modification only, the indemnification provisions of the ATS Contract are amended by the following language:

The City assumes no financial obligation or liability in connection with the installation or operation by the Contractor of any of the Photo Enforcement Systems located on the Loop 101. The Contractor, at its own expense, will defend, indemnify and hold harmless the City and the State of Arizona, its officers, officials, employees, contractors, volunteers and departments from and against all suits, legal or administrative proceedings, actions, claims, damages, losses, expenses, attorneys fees, court costs, cost of appellate proceedings, and all claim adjusting and handling expenses arising out of any negligent or intentional acts, actions, errors, mistakes or omissions during the performance of this Contract Modification.

#### **16.0 INSURANCE REPRESENTATIONS AND REQUIREMENTS**

The Contractor will insure the City as provided in the ATS Contract and this Modification Agreement, and will name the State of Arizona as an additional insured under its policies of insurance for operations on the Loop 101. During the term of this Agreement, for the protection of the City and the State of Arizona, the Contractor will increase its Commercial General Liability insurance limits to \$20,000,000 for each occurrence, \$20,000,000 Products and Completed Operations Annual Aggregate, and a \$20,000,000 General Aggregate Limit. These limits are not in addition to the insurance requirements in the ATS Contract, but are intended to state the full amount of insurance required of ATS under the ATS Contract, the Intergovernmental Agreement with DPS and this Contract Modification. Upon the termination of the Loop 101 Photo Enforcement Program, the Contractor may reduce its insurance coverages back to those required in the ATS Contract.

The Parties agree that the ATS Contract and this Contract Modification and any modifications or extension to these Contracts is not a construction contract within the meaning of A.R.S. § 41-2586.

The insurance provisions in this Contract Modification are separate and independent from the defense, indemnity and hold harmless requirements and will not be construed in any way to limit the scope and magnitude of the defense, indemnity and hold harmless provisions of this Contract Modification. The defense, indemnity and hold harmless provisions will not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions of this Contract Modification.

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The City's Contract Administrator will be Asst. Chief Sean Duggan and the DPS Contract Administrator will be Commander Tom Woodard. The City's Contract Administrator will be responsible for setting standards for the issuance of DPS citations pursuant to this Agreement.

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All terms and conditions of the ATS Contract not in conflict with the provisions of this Contract Modification will remain in full force and effect.

**20.0 THIRD PARTY BENEFICIARY**

DPS is considered a third party beneficiary to this Agreement.

**SIGNED BY** the Mayor and attested by the City Clerk the day and year written above.

CITY OF SCOTTSDALE, an  
Arizona Municipal Corporation

By: \_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

\_\_\_\_\_  
Carolyn Jagger, City Clerk

CONTRACTOR:  
American Traffic Solutions, Inc.

Reviewed and Approved

By: \_\_\_\_\_  
Adam Tuton  
Chief Operating Officer

By: \_\_\_\_\_  
Cmdr. Tom Woodward  
Department of Public  
Safety

City Contract Administrator:

By: \_\_\_\_\_  
Ass't Chief Sean Duggan

By: \_\_\_\_\_  
Pauline Hecker  
Risk Management Director

By: \_\_\_\_\_  
Monroe Warren  
Purchasing Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deborah W. Robberson,  
City Attorney

# **Loop 101 Photo Enforcement IGA**

June 19, 2007

## **Loop 101 Photo Enforcement Background**

- The City Council voted unanimously to request the State to assume operations of the Loop 101 Photo Enforcement Program
- The State requested the City redeploy photo enforcement cameras on the Loop 101 through June 30, 2007 to give DPS time to implement a statewide program
- Cameras were reactivated on February 22, 2007; the program has generated 33,236 citations through May and is expected to generate an additional 12,500 citations through June 30, 2007

# Loop 101 Photo Enforcement IGA

- DPS has begun development of a comprehensive, statewide photo enforcement program
- Additional time is needed for DPS to finalize intergovernmental agreements with various justice courts as well as to coordinate with various agencies
- DPS has asked the COS to enter into an IGA to continue photo enforcement on Scottsdale's portion of Loop 101 without interruption

## **Terms of DPS Photo Enforcement IGA**

- The IGA is effective on July 1, 2007 and will terminate at midnight December 31, 2007, unless extended by the Scottsdale City Manager for no more than an additional 60 days.
- The City will collect all revenue and disburse all costs associated with the program, retaining any excess revenue. Should revenues not cover expenses, DPS will reimburse the City in full for any shortfall.
- The City assumes no financial obligation or liability in connection with the installation or operation of the Loop 101 Photo Enforcement Program.



## **Contract Amendments with Redflex and ATS**

- The contract amendments with Redflex and ATS ensure continuous operation and an orderly transition of the Photo Enforcement Program on the Loop 101 during the change in vendors.

## **Contract Amendments with Redflex**

- Staggered implementation in July, during which Redflex will be operating a portion of the systems while the program is being transitioned to ATS.
- Redflex: Monthly fixed fee of \$ 2,761 for each of their 4 active cameras during the month of July.
- ATS: Monthly fixed fee of \$2,761 for each active camera, and \$47.48 for every citation with a successful disposition (violation pays fine, attends DDS or found responsible in court).
- All six cameras to be active by July 31, 2007.

# Financial Impacts

Estimated General Fund Revenue over expenses

- \$154,828 if IGA ends 12/31/07
- up to \$279,941 with optional extensions

# Resolution Approval

Approve Resolution No 7295 authorizing:

- Modification to the ATS contract No 2007-063-COS-A1 to operate the photo enforcement system on the Loop 101
- Amendment to the Redflex contract No 2002-072-COS-A3 extending photo enforcement services on the Loop 101 to midnight July 26, 2007
- Approval of IGA No. 2007-092-COS with DPS to provide Loop 101 photo enforcement services